

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES**

IN THE MATTER OF:

[REDACTED]
[REDACTED]
[REDACTED]

Reg. No.: 201434709
Issue No(s): 2008; 6001
Case No.: [REDACTED]
Hearing Date: May 28, 2014
County: Wayne (19)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

HEARING DECISION

Following Claimant's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, a telephone hearing was held on May 28, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Eligibility Specialist.

ISSUE

Did the Department properly calculate Claimant's Child Development and Care (CDC) hours?

Did the Department properly determine Claimant's Food Assistance Program (FAP) group size?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Claimant's household contained Claimant, her two children, and a foster child, DP, who came into her care on March 28, 2014.
2. Claimant was an ongoing recipient of FAP and CDC benefits.
3. On April 2, 2014, the Department sent Claimant a Notice of Case Action notifying her that she was approved for CDC benefits for her two children for 40 hours per

2-week CDC payment period effective April 20, 2014 and approved for monthly FAP benefits of \$284 effective May 1, 2014.

4. On April 15, 2014, the Department sent Claimant a Notice of Case Action notifying her that she was approved for CDC benefits for DP for 40 hours per 2-week CDC payment period effective March 23, 2014.
5. On April 15, 2014, Claimant filed a request for hearing disputing the Department's actions concerning her CDC and FAP cases.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), Department of Human Services Reference Tables Manual (RFT), and Department of Human Services Emergency Relief Manual (ERM).

Claimant requested a hearing concerning her FAP and CDC cases.

CDC

The Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, 42 USC 601-619, 670-679c, and 1397-1397m-5; the Child Care and Development Block Grant of 1990, PL 101-508, 42 USC 9858 to 9858q; and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193. The program is implemented by 45 CFR 98.1-99.33. The Department administers the program pursuant to MCL 400.10 and provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001-.5020.

In her hearing request, Claimant expressed concerns about the Department approving her for only 40 hours biweekly CDC hours for her two children and the Department's failure to include DP on her CDC case. The evidence at the hearing, specifically the April 15, 2014 Notice of Case Action, established that the Department added DP to Claimant's CDC case as of the March 23, 2014 billing period. Thus, the only issue remaining as of the hearing date was the number of CDC hours the Department approved for Claimant.

The Department testified that after it received a verification of employment from Claimant's new employer indicating that Claimant was a part-time employee who worked between 20 to 35 hours weekly, it contacted the human resources manager who prepared the form for further clarification. According to the Department, the human resources manager informed the Department that Claimant was a part time employee and her most recent paystub showed 40.75 hours of employment. The Department's testimony concerning its conversation did not provide any further information than that which was already contained in the verification of employment. However, Claimant credibly testified at the hearing that she had advised the Department from the time her

new employment began that, after her training period ended, she would begin working 40 hours weekly. She testified that she began regularly working 40 hours weekly on April 13, 2014. She also testified that she gave the Department her schedule and the telephone number of her immediate supervisor to verify the information concerning her hours, but the Department refused to consider anything other than her paystubs. She noted that her pay lagged behind her then-current work hours by a month so her paystubs did not reflect her current hours.

Before determining eligibility, the Department must give the client a reasonable opportunity to resolve any discrepancy between her statements and information from another source. BAM 130 (April 2014), p. 8. Because Claimant notified the Department that the information provided by the human resources manager was incorrect and provided another contact to verify her work hours, the Department did not act in accordance with Department policy when it failed to allow Claimant the opportunity to resolve the discrepancy.

FAP

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food Stamp Act of 1977, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 273. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001 to .3015.

Claimant was concerned regarding the calculation of her FAP benefits because the April 2, 2014 Notice of Case Action showed that she was disqualified from her FAP group. The April 2, 2014 Notice also failed to include DP as a member of Claimant's FAP group.

At the hearing, the Department acknowledged that Claimant had timely reported that DP had moved into her household on March 28, 2014 and that the child should have been included in her FAP group. A member add that increases benefits is effective the month after it is reported. BEM 550 (February 2014), p. 4. Therefore, DP should have been added to Claimant's FAP case as of April 1, 2014.

The Department was unable to explain why Claimant was disqualified from her FAP group. The Notice indicated that the disqualification was due to Claimant having failed to participate in employment and/or self-sufficiency-related activities or quitting a job, reducing employment hours or being fired without good cause. At the hearing, Claimant explained that she had quit her prior employment as a school bus driver and obtained new employment that, although had a lower hourly pay rate, offered more hours over the course of the year.

Before the Department can disqualify an individual for voluntarily quitting a job or reducing a job of 30 or more hours weekly, it must schedule a triage with the client to allow the client to establish good cause. BEM 233B (July 2013), pp. 4-6. Good cause

includes obtaining comparable employment in salary or hours to the job that was lost. BEM 233A, p. 9. Claimant credibly testified that no triage had been scheduled prior to her disqualification, and the Department did not present any evidence to dispute Claimant's testimony. Thus, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it disqualified Claimant from her FAP group.

It is noted that an eligibility summary of Claimant's FAP case shows that her group size was increased to 3 for April 2014 and to 4 for May 2014 and June 2014. However, no evidence was presented during the hearing concerning this increase.

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it calculated Claimant's CDC hours and her FAP benefits.

DECISION AND ORDER

Accordingly, the Department's decision is REVERSED.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Reprocess Claimant's CDC eligibility for April 16, 2014 ongoing;
2. Remove the employment disqualification applied to Claimant's FAP case on or about April 1, 2014 from Claimant's record;
3. Recalculate Claimant's FAP benefits for April 1, 2014 ongoing to include Claimant and the foster child DP;
4. Issue supplements to Claimant for CDC and/or FAP benefits she was eligible to receive but did not from April 1, 2014, ongoing; and
5. Notify Claimant in writing of its decision.


Alice C. Elkin
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: June 17, 2014

Date Mailed: June 17, 2014

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides or has its principal place of business in the State, or the circuit court in Ingham County, within 30 days of the receipt date.

A party may request a rehearing or reconsideration of this Hearing Decision from the Michigan Administrative Hearing System (MAHS) within 30 days of the mailing date of this Hearing Decision, or MAHS may order a rehearing or reconsideration on its own motion.

MAHS may grant a party's Request for Rehearing or Reconsideration when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The party requesting a rehearing or reconsideration must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date this Hearing Decision is mailed.

A written request may be faxed or mailed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088 and be labeled as follows:

Attention: MAHS Rehearing/Reconsideration Request

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-07322

ACE/tlf

cc:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]