

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

IN THE MATTER OF:

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Reg. No.: 14-015879
Issue No.: 2000;3008;6004
Case No.: ██████████
Hearing Date: December 08, 2014
County: Wayne-District 17

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

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 December 8, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████ ██████████, Eligibility Specialist.

ISSUE

Did the Department properly process Claimant's Medical Assistance (MA); Food Assistance Program (FAP); and Child Development and Care (CDC) benefits?

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 was an ongoing recipient of FAP and MA benefits.
2. On or around October 19, 2014, Claimant submitted an application for CDC benefits.
3. On October 20, 2014, the Department sent Claimant a Notice of Case Action informing her that effective October 1, 2014, she was approved for FAP benefits in the amount of \$97 monthly. (Exhibit 1)

4. On November 3, 2014, the Department sent Claimant a Notice of Case Action informing her that the CDC application was denied on the basis that her gross income exceeded the limit for CDC purposes and that effective December 1, 2014, her FAP benefits would be decreased to \$96 monthly. (Exhibit 4)
5. On November 12, 2014, Claimant submitted a hearing request disputing the closure of her MA case, the amount of her FAP benefits and the denial of her CDC application.

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).

MA

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. The Department (formerly known as the Family Independence Agency) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

The hearing was requested to dispute the Department's action taken with respect to the closure of Claimant's daughter's MA case. Shortly after commencement of the hearing, Claimant testified that she understood and was satisfied by the actions taken by the Department and did not wish to proceed with the hearing, as the Department had corrected the action that she requested a hearing on. Claimant confirmed that there was no issue left to be resolved, as the Department had reinstated her daughter's MA case and she has active MA benefits. The Request for Hearing was withdrawn. The Department agreed to the dismissal of the hearing request. Pursuant to the withdrawal of the hearing request filed in this matter, the Request for Hearing is, hereby, **DISMISSED**.

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.

FAP Benefits effective October 1, 2014

On October 20, 2014, the Department sent Claimant a Notice of Case Action informing her that effective October 1, 2014, she was approved for FAP benefits in the amount of \$97 monthly. (Exhibit 1). Claimant disputed the Department's calculation of her FAP benefits in the amount of \$97. At the hearing, the Budget Summary from the October 20, 2014, Notice of Case Action was reviewed to determine if the Department properly calculated Claimant's FAP benefits. (Exhibit 1, p. 2).

In calculating a client's FAP benefits, all countable earned and unearned income available to the client must be considered in determining the Claimant's eligibility for program benefits. BEM 500 (July 2014), pp. 1 – 4. The Department determines a client's eligibility for program benefits based on the client's actual income and/or prospective income. Prospective income is income not yet received but expected. BEM 505 (July 2014), pp. 1-2. In prospecting income, the Department is required to use income from the past 30 days if it appears to accurately reflect what is expected to be received in the benefit month, discarding any pay if it is unusual and does not reflect the normal, expected pay amounts. BEM 505, p. 5. The Department will use income from the past 60 or 90 days for fluctuating or irregular income if: the past 30 days is not a good indicator of future income and the fluctuations of income during the past 60 or 90 days appear to accurately reflect the income that is expected to be received in the benefit month. BEM 505, pp.5-6.

A standard monthly amount must be determined for each income source used in the budget. BEM 505, p. 7. Income received biweekly is converted to a standard amount by multiplying the average of the biweekly paychecks by the 2.15 multiplier. BEM 505, pp. 7-8. The Department is to also apply a 20% earned income deduction to Claimant's gross countable earned income. BEM 550 (February 2014), p. 1.

The Department concluded that Claimant had earned income of \$1662, which it testified came from Claimant's employment. The Department testified that in calculating Claimant's earned income, it considered Claimant's biweekly pay, specifically (i) \$792.55 paid on September 5, 2014; and (ii) \$758.29 paid on September 19, 2014. (Exhibit 2). Claimant testified that she works between 38-40 hours weekly and that she is paid about \$9.50 per hour. Claimant stated that the amounts relied on by the Department include overtime pay, however, after review, the income amounts relied on by the Department are consistent with Claimant's testimony and include less than two hours of overtime pay, which the Department is to consider, per policy. Thus, the Department relied on the correct figures to calculate Claimant's earned income.

The budget shows that the Department properly applied the \$154 standard deduction applicable to Claimant's confirmed group size of two and the Department testified that the maximum \$553.00 standard heat and utility deduction available to FAP groups responsible for certain heating and utility expenses was properly applied. The

Department also considered Claimant's confirmed housing expenses of \$345. RFT 255 (October 2014), p 1; BEM 554 (May 2014), pp. 12-15. RFT 255 (October 2014), p.1;(Exhibit 3).

A review of Claimant's FAP budget, based on the information available to the Department at the time the budget was prepared, shows that the Department properly concluded that Claimant was eligible for monthly FAP benefits of \$97, effective October 1, 2014.

FAP Benefits Effective December 1, 2014

On November 3, 2014, the Department sent Claimant a Notice of Case Action informing her that effective December 1, 2014, her FAP benefits were being decreased to \$96 monthly. (Exhibit 4). Claimant disputed the Department's calculation of her FAP benefits for December 1, 2014, ongoing, in the amount of \$96. At the hearing, the FAP EDG Net Income Results Budget was reviewed to determine if the Department properly calculated Claimant's FAP benefits. (Exhibit 5).

The Department concluded that Claimant had earned income of \$1667, which it testified came from Claimant's employment. The Department testified that in calculating Claimant's earned income, it considered Claimant's biweekly pay, specifically (i) \$792.55 paid on September 5, 2014; and (ii) \$758.29 paid on September 19, 2014. (Exhibit 2). A review of the employment pay details summary from Bridges, however, indicates that Claimant was paid on October 3, 2014, and October 17, 2014, so it remained unclear why the Department was considering income from September 2014 in the determination of December 2014 FAP benefits, if more recent income information was available and policy provides that the Department is to consider income earned from the past 30 days. BEM 505, pp.5-6. Thus, the Department relied on the incorrect figures in calculating Claimant's earned income and as such, did not properly calculate the amount of Claimant's FAP benefits for December 1, 2014, ongoing.

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 because of the errors in calculation of Claimant's earned income, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it calculated Claimant's FAP benefits for December 1, 2014, ongoing.

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 this case, on or around October 19, 2014, Claimant submitted an application for CDC benefits. On November 3, 2014, the Department sent Claimant a Notice of Case Action informing her that the CDC application was denied on the basis that her gross income exceeded the limit for CDC purposes. (Exhibit 4). Claimant requested a hearing disputing the Department's actions.

In order to be eligible for CDC benefits, the group must have gross income that falls within the income scale found in RFT 270. RFT 270 (August 2014), p.1; BEM 703 (August 2014); BEM 205 (July 2013); BEM 525 (July 2013). The CDC gross income limit for Claimant's two person CDC group is \$1607. RFT 270, p.1.

At the hearing, the Department presented a CDC Income Eligibility budget in support of its determination that Claimant had excess income and was thus, ineligible for CDC benefits. (Exhibit 7). The Department concluded that Claimant had earned income of \$1667. The Department stated that in calculating the income, it relied on the same information and figures used to determine her income for FAP purposes.

Because of the errors in the calculation of Claimant's earned income discussed above, the Department has failed to satisfy its burden in establishing that it acted in accordance with Department policy when it denied Claimant's CDC application on the basis that her gross income exceeded the limit.

DECISION AND ORDER

Accordingly, the hearing request is DISMISSED with respect to MA; the Department's decision is AFFIRMED IN PART with respect to the calculation of Claimant's FAP benefits for October 1, 2014, and REVERSED IN PART with respect to the calculation of Claimant's FAP benefits for December 1, 2014, ongoing, and REVERSED with respect to the denial of Claimant's CDC application.

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. Recalculate Claimant's FAP budget for December 1, 2014, ongoing;
2. Issue FAP supplements to Claimant from December 1, 2014, ongoing, in accordance with Department policy;
3. Register and process Claimant's October 2014 application for CDC benefits;

4. Issue supplements to Claimant and her CDC provider from the application date, ongoing, in accordance with Department policy; and
5. Notify Claimant in writing of its decision.



Zainab Baydoun
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: **12/11/2014**

Date Mailed: **12/11/2014**

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NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, 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.

