

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

IN THE MATTER OF:



Reg. No.: 14-017621
Issue No.: FAP, CDC
Case No.: [REDACTED]
Hearing Date: January 14, 2015
County: OAKLAND-DISTRICT 3

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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 January 14, 2015, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Eligibility Specialist.

ISSUES

Did the Department properly determine Claimant's eligibility for Food Assistance Program (FAP) benefits?

Did the Department properly determine Claimant's eligibility for 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 CDC benefits.
2. In October 2014, Claimant returned completed Semi-Annual Contact Report and Redetermination forms for these programs.
3. The Department determined Claimant was no longer eligible for FAP and CDC program benefits because she had excess income for both programs.
4. On November 17, 2014, a Notice of Case Action was issued to Claimant stating the CDC case would close effective November 30, 2014.

5. On December 12, 2014, a Notice of Case Action was issued to Claimant stating the FAP case would close effective November 1, 2014.
6. On December 1, 2014, Claimant filed a request for hearing contesting the Department's actions.

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).

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.

Stable and fluctuating income that is received more often than monthly is converted to a standard monthly amount. BEM 505.

For CDC, if the program group does not qualify for one of the categorically eligible groups, the Department must determine eligibility for the income-eligible group. The program group's countable income is tested against the Child Development and Care Income Eligibility Scale found in RFT 270. BEM 703. For a group of three, there is no DHS assistance if gross monthly income is over \$1,990. RFT 270.

Based on income verifications utilized for the CDC case review, Claimant's total countable income was \$2,505.97. This included both earned income and child support income. Accordingly, Claimant's income exceeded the \$1,990 limit for the CDC program. The determination to close Claimant's CDC case must be upheld.

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.

Stable and fluctuating income that is received more often than monthly is converted to a standard monthly amount. BEM 505.

For FAP, a non-categorically eligible non-Senior/Disabled/Veteran (non-SDV) FAP group must have income below the gross and net income limits. BEM 550. For a group size of three, the FAP gross income limit is \$2,144 and the net income limit is \$1,650. RFT 250.

Additionally, dependent care expenses are allowable expenses for the FAP budget. BEM 554.

In this case, it appears the Department erred in calculating the FAP budget to determine ongoing eligibility. While the FAP case action was made effective retroactive to November 1, 2014, the budget shows the benefit period for this determination started January 1, 2014, and the Notice of Case Action was issued December 12, 2014. The Department did not include child care expenses in the FAP budget. As noted above, the Department had already determined that CDC benefits case would close effective November 30, 2014, thus Claimant was now paying out of pocket for child care. Claimant credibly testified she submitted verification of her child care expenses to the caseworker.

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

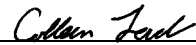
- acted in accordance with Department policy when it closed Claimant's CDC case due to excess income.
- did not act in accordance with Department policy when it .
- failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed Claimant's FAP case due to excess income.

DECISION AND ORDER

Accordingly, the Department's decision is

- AFFIRMED.**
- REVERSED.**
- AFFIRMED IN PART** with respect to the CDC closure and **REVERSED IN PART** with respect to the FAP closure.
- 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. Re-determine Claimant's FAP eligibility retroactive to the November 1, 2014 effective date of the case closure in accordance with Department policy.

2. Issue Claimant any supplement she may thereafter be due.



Colleen Lack
Administrative Law Judge
for Nick Lyon, Interim Director
Department of Human Services

Date Signed: **1/20/2015**

Date Mailed: **1/20/2015**

CL/hj

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.

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 48909-8139

cc:

