

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

IN THE MATTER OF:



Reg. No.: 15-002226
Issue No.: 3002; 6002
Case No.: [REDACTED]
Hearing Date: April 30, 2015
County: INGHAM

ADMINISTRATIVE LAW JUDGE: Landis Y. Lain

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; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on April 30, 2015, from Lansing, Michigan. Participants on behalf of Claimant included Claimant and her Authorized Hearings Representative [REDACTED]. Participants on behalf of the Department of Health and Human Services (Department) included [REDACTED], Hearings Facilitator and Assistant Attorney General [REDACTED].

State's Exhibit A pages 1-39 and Administrative Law Judge (ALJ) Exhibit B pages 1-5 were admitted as evidence without objection.

ISSUE

Did the Department properly cancel Claimant's 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 is an FAP and a CDC benefit recipient.
2. On October 29, 2014, claimant requested that her childcare hours be increased to 90 hours bi-weekly.
3. On November 26, 2014, the Department caseworker sent Claimant a Verification Checklist, which requested that Claimant provide check stubs for September 23,

2014, through November 18, 2014, with a due date of December 8, 2014.
(State's Exhibit A pages 2-3)

4. On December 26, 2014, the Department sent Claimant a Notice of Case Action that her CDC benefits would close effective January 11, 2015, and FAP benefits would close February 1, 2015, for failure to return verification information.
(State's Exhibit A pages 4-5)
5. On January 8, 2015, Claimant filed an application for CDC and FAP benefits.
(State's Exhibit A pages 8-27)
6. On January 27, 2015, Claimant filed a request for a hearing to contest the Departments' negative action, and stating that she did not receive notice that she was supposed to provide verification information.
7. On February 5, 2015, the Department sent Claimant a childcare client authorization, which approved Claimant for ongoing CDC benefits effective January 11, 2015.
8. The Department representative conceded on the record that the CDC benefits should have been approved effective January 8, 2015.

CONCLUSIONS OF LAW

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

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food and Nutrition Act of 2008, 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 Department of Human Services) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011.

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.

Pertinent Department policy states as follows:

The client is responsible for obtaining any requested verifications needed to determine eligibility. Use the DHS-3503, Verification Checklist, to inform the client of what verifications are needed at application and redetermination. You may also choose to use the form at case changes. A copy of all verifications must be included in the case record.

See BAM 210, Redeterminations/Ex Parte Review, for policy regarding verification at redetermination.

Verification Timeframes

The client is allowed a full 10 calendar days from the date verification is requested (the date of request is not counted) to provide the requested information. If requested, at least one extension must be given if the client cannot provide the verification despite a reasonable effort. For active cases, Bridges will allow timely notice if verifications are not returned.

Verifications At Application

The following is required prior to opening CDC on Bridges:

- Verify the **identity** of the applicant and authorized representative, if any; see BEM 221, Identity.
- Verify the client's address; see BEM 220 for acceptable verifications.
- Obtain the **Social Security number (SSN)** of the CDC grantee. Do **not** deny eligibility solely because you are unable to obtain the SSN.
- Verify the **alien status** for each child needing care that **is not a U.S. citizen**; see BEM 225, Citizenship/Alien Status.
- Verify the need for CDC; see BEM 703, including:
 - Documentation of need for children over age 12 who need care (court order or a physician's statement).
 - Documentation of the need reason for EACH parent/substitute parent.

- Verify all countable income, if CDC Income Eligible group; see BEM 500-504.
- Verify presence of children, only if questionable.
- Verify the client is using an enrolled and eligible provider. BEM 702, pages 1-2.

Determine the valid need hours for each parent/substitute parent (P/SP) at application, redetermination, and when a change in work or activity hours is reported. Bridges will determine the authorization based on the actual need hours entered.

Calculate the actual need hours considering:

- Time spent in the activity. See BEM 703 to determine if a particular activity may be approved.
- Meal periods during the work or school day.
- Study, tutoring and required lab time.
- Travel time from the child care provider to and from the activity.
 - Add 10 hours of travel time per pay period for each need reason.
 - P/SPs requiring more than 10 hours of travel time per pay period must provide documentation supporting the need. The local office can approve the additional hours, if reasonable.

Round the biweekly figure up to the next whole hour if it includes a fraction and enter the calculated figure into Bridges. Bridges will adjust and authorize to the correct:

- 20 hours.
- 40 hours.
- 60 hours.
- 80 hours.
- 90 hours.

Note: Hours of need are based on the P/SP's schedule, not the child's schedule.

Example: Sally reports that she is at work nine hours per day (eight work hours + one hour lunch) Wednesday through Friday each week. Sally's valid need hours are 64 hours per

pay period, including 10 hours of travel time. Enter into Bridges the actual biweekly valid need hours of 64. Bridges will convert to the appropriate tier, which would be 80. BEM 710, page 1.

In this case, Claimant testified that she requested that her CDC benefits be increased from 80 to 90 hours per pay period because she was working increased hours. Claimant testified that she did not receive a Verification Checklist and always provides any verification information that is requested of her when she received the request.

Evidence on the record indicates that Claimant provided her caseworker with her check stubs for [REDACTED], and [REDACTED], directly to her caseworker on September 10, 2014. (Exhibit A pages 32-33) Evidence indicates that Claimant provided pay stubs via facsimile on February 17, 2015. (Exhibit A pages 34-38)

The Department witness testified: that the request for increase of CDC benefits was denied based upon the fact that most of Claimant's check stubs indicate that Claimant was working between 60-70 hours every two weeks. The Department would add a maximum of 10 hours for travel or lunch, which would take the maximum that Claimant was entitled to to 80 hours every two weeks. If Claimant worked 71 hours, she could be given the maximum 10 hours for a total of 81 hours, which could then be rounded up to 90 hours for two weeks. There was only one pay stub that showed that Claimant worked 71 hours in a two-week period. (State's Exhibit A page 35) Thus, Claimant is not entitled to an increase to 90 hours per two weeks in CDC benefits, as that check stub would have been after the Department caseworker made a calculation for CDC eligibility. The Department also argued that Claimant has received all benefits to which she is entitled.

Notes contained in State's Exhibit A page 39 indicate that an in-person interview was conducted on February 10, 2015, with Claimant and her employer. Both the employer and Claimant indicated to the caseworker that Claimant has been working 37.5 hours per week since September 1, 2014. However, the available check stubs only reflect 37.5 hours or 71 hours for one pay stub. The pay stubs for [REDACTED], through [REDACTED], were not provided at the hearing by either party.

Administrative Law Judge Exhibit B pages 1-5 indicate that from October 2014 through January 2015 Claimant received CDC benefits until December 13, 2014. Claimant received FAP benefits continually from June 1, 2014, through April 1, 2015. This occurred because the closure dates for the prior case and the new application eligibility dates overlapped. Thus, Claimant has not established that she has been denied of any benefits to which she is entitled.

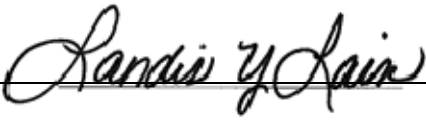
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department has established by the necessary competent, material and substantial evidence on the

record that it acted in accordance with Department policy when it proposed to cancel claimant's CDC and FAP benefits for failure to provide verification evidence.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, decides that the Department has established by a preponderance of the evidence that it was acting in compliance with Department policy when it cancelled Claimant's FAP and CDC benefits for failure to provide verification information in a timely manner.

Accordingly, the Department's decision is **AFFIRMED**.



Landis Lain
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **5/5/2015**

Date Mailed: **5/5/2015**

LYL/jaf

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 copy of the claim or application for appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Hearing Decision from 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:

