

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

IN THE MATTER OF:



Reg. No.: 15-004924
Issue No.: 3001, 6000
Case No.: [REDACTED]
Hearing Date: April 30, 2015
County: Wayne (15)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 April 30, 2015, from Detroit, Michigan. Participants included the above-named Claimant. Participants on behalf of the Department of Health and Human Services (DHHS) included [REDACTED], specialist.

ISSUES

The first issue is whether Claimant timely requested a hearing to dispute a termination of Child Development and Care (CDC) eligibility.

The second issue is whether DHHS properly determined Claimant's Food Assistance Program (FAP) eligibility.

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 CDC and FAP benefit recipient.
2. Claimant's FAP eligibility was scheduled for redetermination, effective January 2015.
3. On an unspecified date, Claimant submitted a Redetermination (Exhibits 9-14).

4. Claimant submitted pay stubs verifying that she received the following gross biweekly pay amounts: \$1382.64 for the pay period ending [REDACTED] and \$1362.10 for the pay period ending [REDACTED].
5. Claimant failed to verify property tax and day care expense obligations.
6. On [REDACTED], DHS mailed Claimant a Notice of Case Action (Exhibits 1-4) informing Claimant of a termination of CDC eligibility.
7. The Notice of Case Action dated [REDACTED] also informed Claimant that her FAP eligibility would be \$96, effective January 2015, in part, based on \$0 in property taxes, \$0 in day care expenses, and monthly gross income of \$2928.
8. On [REDACTED], Claimant requested a hearing to dispute her FAP eligibility from January 2015-March 2015 and the termination of CDC eligibility.

CONCLUSIONS OF LAW

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

Claimant requested a hearing, in part, to dispute a termination of CDC eligibility. Claimant's request has a procedural obstacle.

The client or authorized hearing representative has 90 calendar days from the date of the written notice of case action to request a hearing. BAM 600 (January 2015), p. 6. The request must be received in the local office within the 90 days. *Id.*

It was not disputed that on [REDACTED], DHHS mailed written notice of a termination of Claimant's CDC eligibility. Claimant did not request a hearing until [REDACTED], approximately 95 days after DHHS mailed Claimant written notice of the CDC termination.

Claimant contended that DHHS is to blame for part of the time it took for her to request a hearing. Claimant testified that she had to wait for DHHS to mail her a hearing request before she could request a hearing about the CDC termination. Claimant could not explain why she did not utilize the hearing request enclosed with the case action notice

dated [REDACTED]. Each Notice of Case Action is known to include a hearing request.

The application forms and each written notice of case action must inform clients of their right to a hearing. BAM 600 (January 2015), p. 1. These include an explanation of how and where to file a hearing request, and the right to be assisted by and represented by anyone the client chooses. *Id.*

Claimant did not establish a valid excuse for her delay in requesting a hearing concerning CDC eligibility. Accordingly, Claimant's hearing request for CDC benefits will be dismissed for not being filed within 90 days after written notice was issued.

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

Claimant requested a hearing, in part, to dispute her FAP eligibility since January 2015. Claimant testified that she was content with her FAP eligibility since April 2015. Thus, only the months of January 2015, February 2015, and March 2015 remain in dispute.

On [REDACTED], DHHS redetermined Claimant's FAP eligibility, effective January 2015. DHHS presented Claimant's Redetermination (Exhibits 9-14) and documents submitted with her redetermination (Exhibits 15-17). BEM 556 outlines how DHS is to calculate FAP eligibility.

DHHS presented pay stubs submitted with Claimant's redetermination documentation (Exhibits 5-8). Claimant had \$1382.64 in biweekly gross earnings for the pay period ending [REDACTED] (see Exhibit 2) and \$1362.10 in biweekly gross earnings for the pay period ending December 6, 2014.

DHHS converts bi-weekly non-child support income into a 30 day period by multiplying the income by 2.15. BEM 505 (July 2013), pp. 7-8. DHS is to count the gross employment income amount. BEM 501 (July 2012), p. 5.

Multiplying Claimant's verified average pays by 2.15 results in a monthly gross income of \$2950. DHHS calculated Claimant's income to be \$2928/month. For purposes of this decision, the lower income (which is more favorable to Claimant) will be accepted as the proper amount to factor in Claimant's FAP redetermination.

DHS counts 80% of a FAP member's timely reported monthly gross employment income in determining FAP benefits. Applying the 20% deduction to the employment income creates a countable monthly employment income of \$2342 (dropping cents).

DHS uses certain expenses to determine net income for FAP eligibility and benefit levels. BEM 554 (October 2014), p. 1. For groups without a senior (over 60 years old), disabled or disabled veteran (SDV) member, DHS considers the following expenses: child care, excess shelter (housing and utilities) up to a capped amount and court-ordered child support and arrearages paid to non-household members. For groups containing SDV members, DHS also considers the medical expenses for the SDV group member(s) and an uncapped excess shelter expense. Claimant had no disabled members in her group.

Verified medical expenses for SDV groups, child support and day care expenses are subtracted from a client's monthly countable income. Claimant conceded that she had no child support expenses. Claimant testified that she reported and verified day care expenses on her Redetermination. It was verified that Claimant listed day care expenses on her Redetermination. Thus, it must be determined if Claimant verified day care expenses.

DHS is to verify dependent care expenses at application, reported change and redetermination. BEM 554 (October 2014), p. 8. DHHS presented the documents Claimant submitted with the Redetermination. Day care expense verifications were not among Claimant's submitted documents. It is found that DHHS properly did not factor day care expenses because Claimant did not verify them. Claimant can submit proof of her expenses at any time if she wishes to have them credited in her FAP eligibility.

Claimant's FAP benefit group receives a standard deduction of \$192. RFT 255 (October 2014), p. 1. The standard deduction is given to all FAP benefit groups, though the amount varies based on the benefit group size. The standard deduction is subtracted from the countable monthly income to calculate the group's adjusted gross income. The adjusted gross income amount is found to be \$2150.

Claimant contended that DHHS should have factored her yearly property taxes. Claimant testimony alleged that she submitted proof of her property taxes with her Redetermination. Claimant's property taxes were not among Claimant's submitted redetermination documents; thus, DHHS properly did not factor them. Claimant alleged no other monthly housing expenses. DHHS factored the maximum utility credit (\$553) in Claimant's FAP budget. Claimant's total shelter expenses are found to be \$553

DHS only credits FAP benefit groups with what DHS calls an "excess shelter" expense. This expense is calculated by subtracting half of Claimant's adjusted gross income from Claimant's total shelter obligation. Claimant's excess shelter amount is found to be \$180.

The FAP benefit group's net income is determined by taking the group's adjusted gross income and subtracting the allowable excess shelter expense. The FAP benefit group's net income is found to be \$2150. A chart listed in RFT 260 is used to determine the proper FAP benefit issuance. Based on Claimant's group size and net income, Claimant's proper FAP benefit issuance is found to be \$96, the same amount calculated by DHS.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that Claimant failed to timely request a hearing concerning a CDC eligibility termination. Claimant's hearing request is **PARTIALLY DISMISSED**.

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly determined Claimant's FAP eligibility, effective January 2015, as \$96/month. The actions taken by DHS are **AFFIRMED**.



Christian Gardocki
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **5/8/2015**

Date Mailed: **5/8/2015**

CG / hw

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:

