

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

IN THE MATTER OF:

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██████████
████████████████

Reg. No.: 15-007267
Issue No.: 3000, 6001
Case No.: ██████████
Hearing Date: June 10, 2015
County: WAYNE-DISTRICT 35
(REDFORD)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 June 10, 2015, from Detroit, Michigan. Participants on behalf of Claimant included the Claimant. Participants on behalf of the Department of Health and Human Services (Department) included ██████████, Hearing Facilitator.

ISSUE

Did the Department properly close the Claimant Child Development and Care (CDC) case?

Did the Department properly close the Claimant's Food Assistance (FAP) case?

FINDINGS OF FACT

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

1. The Claimant was an ongoing recipient of Food Assistance (FAP) and Child Development and Care Benefits (CDC).
2. On April 20, 2015 the Department issued a Notice of Case Action which closed the Claimant's CDC benefits on May 3, 2015 for lack of demonstrated CDC need and the group income exceeding the CDC limit. The Department also closed the Claimant's FAP benefits due to net income exceeding the income limit. Exhibit 1.

3. At the hearing the Claimant withdrew his hearing request regarding the Department's closure of his FAP benefits as the Department had restored Claimant's FAP benefits at the time of the hearing.
4. The Claimant sent an email to his caseworker on May 11, 2015 with check stubs for his wife indicating she was working in April 2015. Two pay stubs for April 2015 were attached to the email.
5. The Claimant's wife was working in April 2015. Two pay stubs were provided on for 4/2/15 – 4/15/15 in the amount of \$72.00 and a pay stub for 4/16/15 – 4/29/15 in the amount of \$504. The Claimant's spouse had started a new job at the end of March 2015.
6. The Claimant completed a Semi Annual Report on March 13, 2015 and advised the Department that the group income had not changed. Exhibit 2
7. The Claimant's spouse received unemployment for the last two weeks of March 2015 in the amount of \$724 for these weeks only. The Claimant advised the Claimant's caseworker of the change.
8. The Claimant received back unemployment in April 2015 in the amount of \$1556 covering the period November 16, 2014 through December 7, 2014. These benefits were included in the benefit determinations as unearned income. The Department's records showed that Claimant's unemployment continued through April 4, 2015 in the amount of \$724 biweekly. This discrepancy was not resolved at the hearing. Exhibit 4.
9. The Claimant requested a timely hearing on April 30, 2015 regarding the closure of his Food Assistance and CDC benefits.

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.

In this case, the Department did not provide budgets for CDC eligibility determinations for the periods which tracked the current income of the CDC group. The Department's closure of CDC on May 3, 2015 appears incorrect as the Claimant's spouse has been working since April 2015 and pay stubs were provided to the Department to demonstrate that she was working. Thus the Department's closure based upon no need is incorrect. Also the Semi Annual showed no change in income. This closure occurred by Notice of Case action dated April 20, 2015. Exhibit 1. The Claimant's wife was not working for the last two weeks of March 2015 when she received \$724 in unemployment benefits. The Claimant's wife started employment again beginning April 2015 for full-time employment. The Department closed the CDC effective May 3, 2015 based on no need and income exceeding the CDC limit. Because the Department did not submit any CDC budgets demonstrating what income was used for its closure determination, the Department did not meet its burden of proof.

This Decision does not address the Notice of Case Action issued May 8, 2015 which closed CDC effective March 22, 2015 as the Notice was issued after the Claimant's current hearing requested dated April 30, 2015. The Claimant may, if he chooses, request a hearing on the May 8, 2015 Notice which covers a different period of CDC.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed the Claimant's CDC effective May 3, 2015, as no CDC budgets were provided and it could not be determined if the group was CDC income eligible for April 2015 and the Claimant's wife was employed, thus she did demonstrate need.

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law finds that the Claimant withdrew his hearing request regarding closure of his FAP benefits and therefore there is nothing to be decided regarding that issue.

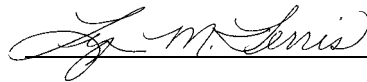
DECISION AND ORDER

The Claimant's Request for Hearing dated April 30, 2015 regarding closure of his FAP case is hereby DISMISSED.

Accordingly, the Department's decision is regarding the closure of the Claimant's CDC case 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. The Department shall reinstate the Claimant's CDC case effective the date of closure (May 3, 2015) and redetermine if the Claimant is otherwise eligible for CDC based upon income and need.
2. The Department shall provide the Claimant notice of its determination of CDC eligibility.



Lynn M. Ferris
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **6/19/2015**

Date Mailed: **6/19/2015**

LMF / cl

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:

[REDACTED]