

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 15-007244
Issue No.: 6001, 3008
Case No.: [REDACTED]
Hearing Date: July 01, 2015
County: WAYNE-DISTRICT 57

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, an in person hearing was held on July 1, 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 [REDACTED], Eligibility Specialist and [REDACTED], Assistance Payments Supervisor.

ISSUE

Did the Department properly calculate the Claimant's Food Assistance (FAP) benefits?

Did the Department properly deny/close the Claimant's 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. The Claimant was an ongoing recipient of FAP benefits and CDC benefits.
2. The Department issued a Notice of Case Action on [REDACTED] reducing Claimant's FAP benefits to \$216 effective [REDACTED]. Exhibit 2
3. The Department issued a Notice of Case Action on [REDACTED] which closed her CDC effective [REDACTED] because Claimant's gross income exceeded the income limit for CDC. Exhibit 3

4. On [REDACTED] The Department issued a Notice of Case Action which approved the Claimant's CDC for two of her children for 80 hours biweekly. Exhibit 4 and Exhibit 5
5. Pursuant to a FAP redetermination, the Claimant submitted pay stubs for the period [REDACTED] (\$1135.13); [REDACTED] (\$1146.42); and [REDACTED] (\$1,155.73). Exhibit 1
6. The Claimant pays for heat, electricity and water, and received a utility standard allowance of \$553. The Claimant pays rent of \$700 and her group size is 4 persons.
7. The Claimant requested a hearing on [REDACTED] protesting the Department's actions as incorrect.

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 Claimant has requested a hearing regarding the closure of Claimant's CDC and a reduction by the Department of her food assistance. The Department received a wage match for the Claimant in March of 2015 and caused the Department to recalculate the CDC and FAP benefits. The Claimant also had a redetermination in April 2015.

CDC BENEFIT CLOSURE

To determine gross monthly income for CDC eligibility, the Department is required to look at the last 30 days of income at redetermination. The Department found that Claimant's income for April (first 2 week period) to be \$2452, and April (second two week period) \$2470, and May 2015 \$2470 exceeded the income limit for a group of 4 persons (exhibit 5). When calculating gross income for CDC, the Department is to take the gross amount of the checks, add them together and divide by the number of checks to get the average biweekly or weekly amount. In this case the Claimant is paid bi-weekly and thus once the average biweekly amount is determined, that amount is multiplied by 2.15. (BEM 505, July 1, 2015 p. 5). Taking the two pays from April 2015 of \$1135 and \$1146 and adding them together and dividing by 2, equals average bi-weekly pay of \$1140. To determine gross monthly income the biweekly amount is multiplied by 2.15 (which equals \$2452). The Department's calculation for this period (April 1-15, 2015) is \$2452, and is correct. The then income limit for a CDC group of 4 was \$2367. (RFT 270, February 1, 2003 p. 1) and (August 1, 2014, p. 1), thus the determination for the period April 1, 2014 through April 18, 2015 finding the claimant's income exceeded this limit is correct (Exhibit 5 p.1). During the period in question the CDC income limit for eligibility did not change and remained \$2367. Although the undersigned could not determine how the Department determined the amount of income used by the Department for April 19, 2015 ongoing, to be \$2470, it is determined that based upon the pay stubs reviewed and the \$2463 determined below for FAP which uses the same calculation formula for FAP and CDC to determine gross income, the Claimant would not have been eligible for CDC in any event, and thus a \$7 difference results in harmless error.

I should be noted that the **CDC monthly income limit has just increased as of July 1, 2015 to \$4906 monthly** (RFT 270, July 1, 2015), and thus the Claimant should reapply for CDC due to this change and her monthly income.

The Department issued 2 Notices of Case Action regarding the Claimant's CDC. The First notice was issued on April 18, 2015 and approved the Claimant's two eligibility children for May 5, 2015 ongoing (Exhibit 4). The second Notice of Case Action was issued May 5, 2015 and closed the Claimant's CDC effective May 31, 2015 ongoing due to excess income (Exhibit 3). While the second notice appeared to be correct, the Department stopped providing CDC benefits from April 1, 2015 ongoing because it learned of the income increase sometime in March 2015. The Department conceded that the Notices above mentioned were issued incorrectly and the Claimant's CDC should have closed April 2015.

CDC Only

Act on reported changes as soon as possible, but act within the standard of promptness; see STANDARDS OF PROMPTNESS in this item. The day a reported change is acted on is not always the day the change must take effect.

Example: A client had prior pay periods certified for CDC. The client failed to report an increase in income that exceeded the income eligibility scale for the group size. When the income is updated, eligibility determination and benefit calculation (EDBC) will re-run from when the change occurred. Bridges would then generate zero approved hours or an over-payment. The client would then be denied the pay period after the change occurred for excess income. BAM 220, (July 1, 2015) p. 8 and 9

CDC case closures and member removals (for example removing an eligible child) take effect on the negative action date. BAM 220. 9

A **negative action** is identified in Bridges with notice reason(s) in eligibility results. Negative actions include:

- Decrease in program benefits, including case or EDG closure. BAM 220 p. 10

Given the above provisions, the Claimant was left without notice of a closure and was led to believe that her case would close May 31, 2015. Notwithstanding this error on the Department's part, it does appear that the Claimant was no longer eligible after the change occurred based upon the example above. However, the notice did not catch up with that reality. Although this created hardship for the Claimant, the CDC should have ended in April 2015. The Department must issue a corrected notice to the Claimant as to the date of closure as of April 2015. The Department should also investigate why the Bridges system issued both Notices of Case Actions in error, given the policy requirements found in BEM 220. Once the Department knew of the change the Claimant should have been advised correctly and promptly.

FAP BENEFITS

As regards the Claimant's food assistance, the current budget was reviewed which was calculated as of June 1, 2015. This budget was correct as regards rent \$700, Utility Standard of \$553, and group size of 4. The correct standard deduction was also used to reduce gross income in the amount of \$164 based upon a group size of 4.

The Department was also required to reduce earned income by 20% for the earned income deduction. The earned income amount was based upon the three verified pay stubs in the amount of \$1135.13, \$1146.42, and \$1155.73. These biweekly pays total \$3437.28 and when divided by 3 to determine correct average biweekly gross income, the result is \$1145.76. This amount is then multiplied by 2.15, which equals \$2463. Thus the income used to calculate [REDACTED] FAP benefits is correct. 20% of the gross income is \$493 and thus the Department properly credited the Claimant for the correct earned income deduction. The excess shelter deduction of \$350 was also reviewed and calculated during the hearing and is correct. Thus, based upon the evidence provided, the above explanation and evidence, and reduction of the FAP benefits monthly amount to \$216 as determined by the Department is correct (BEM 505 p. 5).

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 reduced the Claimant's FAP benefits.

The Department did act in accordance with Department policy when it determined that the Claimant's earned income exceeded the CDC income limit.

The Department did not act in accordance with Department policy when it failed to advise the Claimant of her CDC closure by proper Notice of Case Action.

DECISION AND ORDER

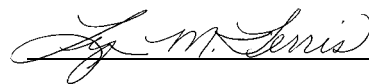
Accordingly, the Department's decision is as to the reduction of FAP benefits is:

AFFIRMED.

Accordingly, the Department is **AFFIRMED IN PART** with respect to its determination that the Claimant's income exceeded the CDC income limit and **REVERSED IN PART** with respect to its failure to provide proper notice advising the Claimant that her CDC closed as of April 2015.

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 issue a new Notice of Case Action advising the Claimant that her CDC benefits closed effective April 1, 2015.



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

Date Signed: **7/10/2015**

Date Mailed: **7/10/2015**

LMF / 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:

