

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 15-013776
Issue No.: 3001, 6001
Case No.: [REDACTED]
Hearing Date: September 23, 2015
County: DELTA

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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, telephone hearing was held on September 23, 2015, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] and her husband [REDACTED]. [REDACTED] represented the Department of Health and Human Services (Department).

ISSUE

Did the Department of Health and Human Services (Department) properly determine the Claimant's eligibility for 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. The Claimant was an ongoing Food Assistance Program (FAP) recipient.
2. On July 27, 2015, the Department received the Claimant's application for Child Development and Care (CDC) benefits.
3. On August 5, 2015, the Department notified the Claimant that it had denied the Claimant's application for Child Development and Care (CDC) benefits.
4. On August 5, 2015, the Department notified the Claimant that it would close her Food Assistance Program (FAP) benefits.
5. On August 11, 2015, the Department received the Claimant's request for a hearing protesting the denial of Food Assistance Program (FAP) and Child Development and Care (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.

All earned and unearned income available to the Claimant is countable. Earned income means income received from another person or organization or from self-employment for duties for duties that were performed for compensation or profit. Unearned income means all income that is not earned, including but not limited to funds received from the Family Independence Program (FIP), State Disability Assistance (SDA), Child Development and Care (CDC), Medicaid (MA), Social Security Benefits (RSDI/SSI), Veterans Administration (VA), Unemployment Compensation Benefits (UCB), Adult Medical Program (AMA), alimony, and child support payments. The amount counted may be more than the client actually receives because the gross amount is used prior to any deductions. Department of Human Services Bridges Eligibility Manual (BEM) 500 (July 1, 2014).

In order to be initially eligible for CDC subsidy benefits, the program group's gross income cannot exceed 95 percent of the income eligibility scale for the group size. For ongoing eligibility, the program group's gross income may fall within the income scale percentages below. Department of Health and Human Services Reference Table Manual (RFT) 250 (July 1, 2015), p 1.

For a group of six, no CDC benefits are available if gross monthly income is over \$6,591. RFT 250 (July 1, 2015).

Before July 1, 2015, the gross monthly income limit for a group of 6 was \$3,123. Department of Health and Human Services Reference Table Manual (RFT) 270 (August 1, 2014), p 1.

The Claimant applied for CDC benefits on July 27, 2015. The Department determined that the Claimant's gross monthly income was \$[REDACTED]. This Administrative Law Judge finds that the evidence on the record does not support a finding that the Claimant is ineligible for CDC benefits due to income because the Department failed to establish that it applied the most current income limits to the Claimant's circumstances.

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, did not act in accordance with Department policy when it denied the Claimant's July 27, 2015, application for Child Development and Care (CDC) benefits.

The Claimant was an ongoing FAP recipient until the Department determined that she was no longer eligible due to the group's income. The Department determined that in addition to the earned income the group receives that the group receives child support income in the gross monthly amount of \$[REDACTED]. The Department failed to establish that the group receives any child support income.

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 Food Assistance Program (FAP) benefits on August 5, 2015.

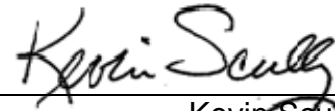
DECISION AND ORDER

Accordingly, the Department's decision 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. Reprocess the Claimant's July 27, 2015, application for Child Development and Care (CDC) benefits.
2. Allow the Claimant a ten-day period to provide verification of the groups income received in August of 2015.
3. Initiate a determination of the Claimant's eligibility for Food Assistance Program (FAP) benefits as of September 1, 2015.

4. Provide the Claimant with written notice describing the Department's revised eligibility determination.
5. Issue the Claimant any retroactive benefits she may be eligible to receive, if any.



Kevin Scully
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **9/28/2015**

Date Mailed: **9/28/2015**

KS/■

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:

