

**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.: 15-014133
Issue No.: 3008; 6001
Case No.: ██████████
Hearing Date: September 23, 2015
County: Wayne-District 19 (Inkster)

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

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 September 23, 2015, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Health and Human Services (Department) included ██████████, Hearings Facilitator.

ISSUE

Did the Department properly calculate the amount of Claimant's Food Assistance Program (FAP) benefits and process her 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 was an ongoing recipient of FAP and CDC benefits.
2. On June 23, 2015, the Department sent Claimant a Notice of Case Action informing her that effective August 1, 2015, her FAP case would be closed and that effective July 12, 2015, her CDC case would be closed. (Exhibit E)
3. On July 9, 2015, Claimant reapplied for FAP and CDC benefits.
4. On July 23, 2015, the Department sent Claimant a Notice of Case Action informing her that she was approved for FAP benefits in the amount of \$124 effective August 1, 2015, and that she was approved for CDC benefits effective July 12, 2015, ongoing. (Exhibit A)

5. On July 30, 2015, Claimant requested a hearing disputing the amount of her FAP benefits and a lapse in 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).

FAP

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.

Claimant requested a hearing disputing the Department's calculation of her FAP benefits in the amount of \$124 effective August 1, 2015. At the hearing, the FAP EDG Net Income results budget was reviewed to determine if the Department properly calculated the amount of Claimant's FAP benefits. (Exhibit B).

All countable earned and unearned income available to the client must be considered in determining the Claimant's eligibility for program benefits. BEM 500 (July 2015), pp. 1 – 5. The Department determines a client's eligibility for program benefits based on the client's actual income and/or prospective income. Prospective income is income not yet received but expected. BEM 505 (July 2015), pp. 1-2. In prospecting income, the Department is required to use income from the past 30 days if it appears to accurately reflect what is expected to be received in the benefit month, discarding any pay if it is unusual and does not reflect the normal, expected pay amounts. BEM 505, p. 5. A standard monthly amount must be determined for each income source used in the budget. BEM 505, p. 7. Income received biweekly is converted to a standard amount by multiplying the average of the biweekly pay amounts by the 2.15 multiplier. BEM 505, pp. 7-8.

The Department concluded that Claimant had earned income in the amount of \$1213 which it testified consisted of Claimant's earnings from employment. The Department considered Claimant's biweekly pay and relied on the paystubs provided by Claimant, specifically, \$506.93 paid on June 15, 2015, and \$621.54 paid on June 29, 2015. (Exhibit C). After further review and in consideration of the above referenced policy, the Department properly calculated Claimant's earned income.

The Department concluded that Claimant had unearned income from child support in the amount of \$379. Child support is money paid by an absent parent(s) for the living expenses of children and is considered unearned income. The total amount of court-ordered direct support (which is support an individual receives directly from the absent parent or the Michigan State Disbursement Unit (MiSDU)) is counted as unearned income and is considered in the calculation of a client's gross unearned income. BEM 503 (July 2015), pp. 6-9. When prospectively budgeting unearned income from child support, the Department is to use the average of child support payments received in the past three calendar months, unless changes are expected, excluding any unusual amounts or those not expected to continue. BEM 505, pp. 3-4. Claimant confirmed that she receives \$379 in monthly child support, thus, the Department properly calculated Claimant's unearned income.

The deductions to income on the budget were also reviewed. Claimant's group is eligible for the following deductions to income:

- Dependent care expense.
- Excess shelter.
- Court ordered child support and arrearages paid to non-household members.
- Standard deduction based on group size.
- An earned income deduction equal to 20% of any earned income.

BEM 554 (October 2014), p. 1; BEM 556 (July 2013), p. 3.

In this case, the Department properly determined that the 20% earned income deduction was \$243 and that Claimant was entitled to a dependent care expense of \$120. BEM 554, p.7. Based on the confirmed two person group size, the Department properly applied the \$154 standard deduction. RFT 255 (October 2014), p. 1. Claimant did not have any child support expenses; therefore, the budget properly did not include a deduction for child support. The Department properly considered the \$553 heat and utility standard in calculating Claimant's excess shelter deduction and determined that Claimant's housing expenses were \$283 based on her monthly rental obligation. Thus, the Department properly determined that Claimant was eligible for an excess shelter deduction of \$299. (Exhibit B; Exhibit E). BEM 556, pp. 4-5.

After further review, the Department properly reduced Claimant's total gross income of \$1415 by the \$243 earned income deduction, the \$154 standard deduction, the \$120 dependent care deduction and the \$299 excess shelter deduction, resulting in monthly net income of \$776. Based on net income of \$776 and a FAP group size of two, the Department acted in accordance with Department policy when it concluded that Claimant was eligible for monthly FAP benefits of \$124. BEM 556; RFT 260 (October 2014), p. 10.

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 calculated the amount of Claimant's FAP benefits effective August 1, 2015.

CDC

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 sent Claimant a Notice of Case Action informing her that her CDC case was scheduled to close effective July 12, 2015. Claimant reapplied for CDC and was informed that she was approved for CDC benefits for the period of July 12, 2015, ongoing. (Exhibit A; Exhibit E). Claimant requested a hearing disputing the Department's actions with respect to her CDC benefits. At the hearing, Claimant testified that her CDC provider was unable to bill and did not receive payment for the period of June 14, 2015, through July 12, 2015, despite Claimant being approved for CDC benefits. Claimant stated that her provider was able to bill for the period beginning July 12, 2015.

The Department confirmed that Claimant was approved for CDC during the period in question and that Claimant's CDC provider was not paid. Although the Department stated that Claimant's CDC provider did not have authorization, Claimant stated that she received documents from the Department indicating otherwise. The eligibility summary and the Notices of Case Action presented by the Department for review at the hearing establish that Claimant was approved for CDC benefits for the period at issue. The Department remained unable to clearly explain why Claimant's CDC provider was not paid.

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 processed Claimant's CDC benefits.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED IN PART** with respect to FAP and **REVERSED IN PART** with respect to CDC.

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. Allow Claimant's CDC provider to bill for CDC services provided on Claimant's behalf between June 14, 2015, and July 12, 2015;
2. Issue supplements to Claimant and her CDC provider for benefits Claimant was entitled to receive between June 14, 2015, and July 12, 2015, in accordance with Department policy; and
3. Notify Claimant in writing of its decision.



Zainab Baydoun
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **10/01/2015**

Date Mailed: **10/01/2015**

ZB / tlf

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.

