

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

IN THE MATTER OF:

[REDACTED]

MAHS Reg. No.: 15-015765
Issue No.: 3001, 6001
Agency Case No.: [REDACTED]
Hearing Date: October 13, 2015
County: WASHTENAW
(DISTRICT 20)

ADMINISTRATIVE LAW JUDGE: Gary Heisler

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 October 13, 2015, from Lansing, Michigan. Participants on behalf of Claimant included himself. Participants on behalf of the Department of Health and Human Services (Department) included Assistance Payments Worker [REDACTED] and Assistance Payments Supervisor [REDACTED].

ISSUE

Did the Department properly close Claimant's Food Assistance Program (FAP) beginning September 1, 2015?

Did the Department properly deny Claimant's July 24, 2015, Child Development and Care (CDC) application?

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 Food Assistance Program (FAP) benefits. Claimant's benefit group consisted of himself and his three children.
2. On July 21, 2015, the Department received a Verification of Employment (DHHS-38) form for Claimant. The form stated he started work at PDQ

Crew Services as a driver on July 20, 2015. The form stated Claimant would be working 60 hours per week and paid on commission.

3. On July 24, 2015, Claimant submitted an application for Child Development and Care (CDC). On the application Claimant indicated he started work July 21, 2015 but did not give a rate of pay.
4. On July 31, 2015, two of Claimant's children left the household to live with their mother.
5. On August 18, 2015, Claimant was sent a Notice of Case Action (DHHS-1605) which stated his Child Development and Care (CDC) application was denied and his Food Assistance Program (FAP) would close beginning September 1, 2015.
6. On August 24, 2015, Claimant submitted a hearing request.

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.

During processing of Claimant's application he participated in a telephone interview with Assistance Payments Worker [REDACTED]. [REDACTED] testified that during the interview Claimant stated he was being paid \$ [REDACTED] per hour. [REDACTED] used that rate of pay to project Claimant's income and that amount made him above the income limit for both Food Assistance Program (FAP) and Child Development and Care (CDC) benefits.

During this hearing Claimant testified that he was not making \$ [REDACTED] per hour at PDQ. Claimant testified that he does remember [REDACTED] asking him how much he made but does not remember exactly what he said when he answered her.

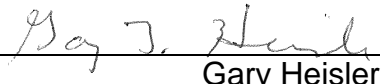
The Department's eligibility determinations of August 18, 2015 were based on a benefit group of 4 with earned based on 60 hours per week of employment at a pay rate of \$ [REDACTED] per hour. The fact that Claimant's household size went down to 2 on July 31, 2015, means that the August 18, 2015 determinations were not properly calculated. That fact trumps the issue of whether the Department properly used a pay rate of \$ [REDACTED] per hour. 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 Claimant's Food Assistance Program (FAP) beginning September 1, 2015 and denied his July 24, 2015, Child Development and Care (CDC) application.

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. Reregister Claimant's July 24, 2015, Child Development and Care (CDC) application and reprocess it with the actual income and group size that existed.
2. Re-determine Claimant's Food Assistance Program (FAP) eligibility beginning September 1, 2015 using the actual income and group size that existed.



Gary Heisler
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **10/20/2015**

Date Mailed: **10/20/2015**

GFH / [REDACTED]

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:

