

**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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████████████████████

MAHS Reg. No.: 15-018246
Issue No.: 3001; 6001
Agency Case No.: ██████████
Hearing Date: November 23, 2015
County: Oakland-District 4
(North Saginaw)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

HEARING DECISION

Following Petitioner'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 November 23, 2015, from Pontiac, Michigan. Petitioner and her fiancé, ██████████, appeared and testified on Petitioner's behalf. The Department of Health and Human Services (Department) was represented by ██████████, Eligibility Specialist.

ISSUE

Did the Department properly close Petitioner's Food Assistance Program (FAP) benefits for failure to verify income?

Did the Department properly deny Petitioner's 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. Petitioner lives with her fiancé and their minor child.
2. Petitioner, her fiancée, and the child are ongoing recipients of FAP benefits.
3. On May 11, 2015, Petitioner reported that she and her fiancé had started employment, and the Department sent her Verification of Employment (VOE) forms for completion by the employer.

4. On May 22, 2015, the Department received a letter from Petitioner explaining expenses they incurred (Exhibit A, pp. 4-5).
5. On June 24, 2015, the Department sent Petitioner a Verification Checklist (VCL) in connection with determining her ongoing FAP eligibility requesting verification of income for Petitioner and her fiancé and of day care expenses by July 6, 2015 (Exhibit A, pp. 6-7).
6. On June 28, 2015, Petitioner filed a CDC application.
7. On July 6, 2015, the Department extended the due date for the verifications and sent Petitioner new VOE forms (Exhibit A, p. 8).
8. On July 22, 2015, the Department sent Petitioner a Notice of Case Action notifying her that her FAP case was closing effective September 1, 2015 because she had failed to verify employment and day care expenses (Exhibit A, pp. 9-12).
9. On July 27, 2015, the Department sent Petitioner a VCL in connection with the CDC application requesting verification of income for Petitioner and her fiancé and verification of the CDC provider (Exhibit A, pp. 14-15).
10. On August 17, 2015, the Department received VOEs completed for both Petitioner and her fiancé (Exhibit A, pp. 18-21).
11. On August 17, 2015, the Department sent Petitioner a Notice of Case Action denying the CDC application due to excess gross income (Exhibit A, pp. 22-25).
12. On September 28, 2015, Petitioner filed a request for hearing disputing the Department's actions (Exhibit A, pp. 2-3).

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).

Petitioner requested a hearing disputing the Department's actions concerning the closure of her FAP case and the denial of her CDC application.

FAP Closure

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 Department explained that it closed Petitioner's FAP case effective September 1, 2015 because it did not receive requested verification of employment by the July 6, 2015 due date of the June 24, 2015 VCL requesting such information or the extended July 16, 2015 due date. Petitioner contended that she had returned VOEs completed by her stepfather, who was also her employer, on three occasions: once with the notice she submitted to the Department on May 22, 2015, once in response to the June 24, 2015 VCL, and finally in response to the August 7, 2015 VCL. The Department acknowledged receiving the VOEs for Petitioner and her fiancé only once, on August 17, 2015, in response to the VCL sent on August 7, 2015 in connection with processing the CDC application.

BAM 205 (July 2014), p. 1, provides that a case must be reinstated without a new application when the client complies with a program requirement before the negative action date. For FAP cases, this policy applies when the FAP group's benefit period ends *after* the month of the potential reinstatement. BAM 205, p. 1.

In this case, Petitioner's FAP case closed September 1, 2015. The Department received the VOE necessary to process her FAP case on August 17, 2015, prior to the case closure. Because the Department received the requested income verifications necessary to process Petitioner's continued FAP eligibility before Petitioner's FAP benefit period ended on September 1, 2015, under BAM 205, the Department did not act in accordance with Department policy when it failed to redetermine Petitioner's FAP eligibility and amount and reinstate her FAP benefits if she continued to remain eligible for FAP benefits.

CDC Application

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.

Although the Department testified that Petitioner filed a CDC application on July 7, 2015, the Notice of Case Action denying the application refers to a begin date of June 28, 2015, and, accordingly, it is found that the application was filed on June 28, 2015. See BAM 115 (July 2015), p. 26 (providing that the begin date for CDC eligibility is the later of the application receipt date, the date the child care need begins, the date the provider becomes eligible for subsidy payments, or the date the unlicensed provider completes the basic training requirement). Although Petitioner alleged that she had

filed an earlier application with the Department that was not processed, the Department denied receiving any application and Petitioner did not present any documentary evidence to support her testimony. Therefore, the issue presented in this case is limited to the Department's denial of Petitioner's June 28, 2015 CDC application.

The August 17, 2015 Notice of Case Action denied Petitioner CDC benefits because the Department concluded that Petitioner's household's gross income exceeded the entry limit for the CDC program (Exhibit A, pp. 22-25). Groups who are not categorically eligible for CDC benefits (based on protective services, foster care or FIP/EFIP-related situations) may be eligible for CDC if they pass the income eligibility test. BEM 703 (July 2015), p. 14. At application, the program group's gross income must not exceed 95% of the income eligibility scale in RFT 270. BEM 703, p. 14. Petitioner's CDC case contained three members: Petitioner, her fiancé, and their minor child. BEM 205 (July 2013), pp. 1-2. The CDC income limit for a three-member CDC group is \$4069. RFT 270 (August 2014), p. 1. 95% of \$4069 is \$3865.55.

At the hearing, the Department presented the VOEs Petitioner had submitted showing the weekly income she and her fiancé received. However, the Department was unable to identify what income information had been used to calculate Petitioner's CDC eligibility or the income limit it applied when it denied the application. Because the Department failed to establish that Petitioner's gross income exceeded the applicable CDC limit for eligibility, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy in denying Petitioner's CDC application.

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 did not act in accordance with Department policy when it closed Petitioner's FAP case for failure to verify income and failed to satisfy its burden of showing that it acted in accordance with Department policy when it denied Petitioner's 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. Reinstate Petitioner's FAP case effective September 1, 2015;
2. Recalculate Petitioner's ongoing FAP eligibility and amount for September 1, 2015 ongoing;

3. Issue supplements to Petitioner for FAP benefits she was eligible to receive but did not from September 1, 2015 ongoing;
4. Reregister and reprocess Petitioner's June 28, 2015 CDC application;
5. Issue supplements to Petitioner (or her provider, as applicable) for CDC benefits she was eligible to receive from June 28, 2015 ongoing; and
6. Notify Petitioner in writing of its FAP and CDC decisions.



Alice C. Elkin
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **11/30/2015**

Date Mailed: **11/30/2015**

ACE / 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.

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]
[REDACTED]
[REDACTED]
[REDACTED]
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