

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 15-007099
Issue No.: 3008, 6001
Case No.: [REDACTED]
Hearing Date: June 23, 2015
County: Oakland-District 2

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 June 23, 2015, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED], the Claimant's authorized hearing representative. Participants on behalf of the Department included [REDACTED] Assistance Payments Worker, and [REDACTED], Family Independence Manager.

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 provided verification of earned income from employment in the bi-weekly amounts of \$ [REDACTED] on February 6, 2015, and \$ [REDACTED] on February 20, 2015.
2. A member of the Claimant's household receives monthly Supplemental Security Income (SSI) in the gross monthly amount of \$ [REDACTED]
3. The Claimant receives monthly court ordered child support in the gross monthly amount of \$ [REDACTED]
4. The Claimant has monthly housing expenses of \$ [REDACTED] and is responsible for heating expenses separate from her housing.

5. On April 23, 2015, the Department notified the Claimant that she was approved for Food Assistance Program (FAP) benefits with a \$ [REDACTED] monthly allotment of benefits, but ineligible for Child Development and Care (CDC) benefits due to her income.
6. On May 1, 2015, the Department received the Claimant's request for a hearing protesting the amount of her monthly allotment of Food Assistance Program (FAP) benefits, and the denial of 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).

All income is converted to a standard monthly amount. If the client is paid weekly, the Department multiplies the average weekly amount by 4.3. If the client is paid every other week, the Department multiplies the average bi-weekly amount by 2.15. Department of Human Services Bridges Eligibility Manual (BEM) 505 (July 1, 2014), pp 6-7.

The Claimant applied for FAP and CDC benefits as a group of three. The Claimant receives monthly earned income in the gross monthly amount of \$ [REDACTED] which was determined by multiplying the average of the two bi-weekly paychecks she verified to the Department of \$ [REDACTED] and \$ [REDACTED] by the 2.15 monthly conversion factor as directed by BEM 505. A member of the Claimant's household receives Supplemental Security Income (SSI) benefits in the gross monthly amount of \$ [REDACTED]. The Claimant receives court ordered child support in the average monthly amount of \$ [REDACTED]. The Claimant's adjusted gross income of \$ [REDACTED] was determined by reducing her earned income by the 20% earned income deduction and her total income by the standard \$ [REDACTED] deduction. The Claimant is entitled to an excess shelter of \$ [REDACTED] which was determined by adding her monthly housing expenses of \$ [REDACTED] to the standard \$ [REDACTED] heat and utility credit, then subtracting 50% of her adjusted gross income.

The Claimant's net income of \$ [REDACTED] was determined by subtracting her excess shelter deduction from her adjusted gross income. A group of three with a net income of \$ [REDACTED] is entitled to a \$ [REDACTED] monthly allotment of FAP benefits. Department of Health and Human Services Reference Table Manual (RFT) 260 (October 1, 2015).

The Claimant's household received monthly countable income in the gross monthly amount of \$ [REDACTED] which is the sum of the earned income, social security benefits, and child support received within the group without any deductions or credits. The income limit to receive any CDC benefits is \$ [REDACTED]. Department of Health and Human Services Reference Table Manual (RFT) 270 (August 1, 2014), p 1.

The Claimant's representative did not dispute that the Claimant's income makes her ineligible for CDC benefits but argued that the Department's denial of CDC benefits retroactively cause her to incur child care expenses that she might not have if she had been denied in a more timely fashion.

At application or redetermination, eligibility for CDC services exists when the Department has established all of the following:


- There is a signed application requesting CDC services.
- Each parent/substitute parent is a member of a valid eligibility group
- Each parent/substitute parent meets the need criteria.
- An eligible provider is providing the care.
- All eligibility requirements are met. Department of Health and Human Services Bridges Eligibility Manual (BEM) 703 (November 1, 2014), p 1.

An application for Child Development and Care (CDC) benefits has the burden of establishing eligibility to receive benefits. In this case, the Claimant is unable to establish her eligibility to receive CDC benefits, and she is responsible for any expenses incurred during the eligibility determination period. The Claimant's reliance on her assumption that she would be eligible for benefits did not create an entitlement to benefits not authorized by Department policy.

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 denied Child Development and Care (CDC) benefits and determined her eligibility for the Food Assistance Program (FAP).

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.



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

Date Signed: **6/30/2015**

Date Mailed: **6/30/2015**

KS/las

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:

