

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

IN THE MATTER OF:

██████████
██████████
██████████

Reg. No.: 15-014693
Issue No.: 3008;6000
Case No.: ██████████
Hearing Date: October 01, 2015
County: Wayne-District 41

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 October 1, 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 Liaison.

ISSUE

Did the Department properly process Claimant's Child Development and Care (CDC) benefits and calculate the amount of her Food Assistance Program (FAP) 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. On an unverified date in July 2015 Claimant applied for FAP and CDC benefits.
2. On July 15, 2015, the Department sent Claimant a Verification Checklist instructing her to return proof of her wages and CDC Provider Assignment by July 27, 2015. (Exhibit A)
3. On July 29, 2015, the Department sent Claimant a Notice of Case Action informing her that for the period of July 12, 2015, ongoing, she was approved CDC benefits. (Exhibit B)
4. Claimant was approved for FAP benefits in the amount of \$110 monthly.

5. On August 7, 2015, Claimant requested a hearing disputing the Department's actions with respect to her CDC and FAP 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).

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.

MAHS may grant a hearing about a denial of an application and/or supplemental payments; reduction in the amount of program benefits or service; suspension or termination of program benefits or service; restrictions under which benefits or services are provided or delay of any action beyond the standards of promptness. BAM 600 (April 2015), pp.4-5. Moreover, BAM 600, p. 6 provides that a request for hearing must be received in the Department local office within 90 days of the date of the written notice of case action.

In the present case, Claimant applied for CDC benefits in July 2015. On July 29, 2015, Claimant was approved for CDC benefits for the period of July 12, 2015, ongoing. (Exhibit B). On August 7, 2015, Claimant requested a hearing disputing the Department's actions with respect to her CDC benefits. At the hearing, Claimant confirmed that she was approved for CDC benefits and that prior to submitting her request for hearing, there was no denial or closure of her CDC benefits. Claimant clarified that she requested a hearing because she did not understand the process of how her CDC provider was to be issued a provider ID to accept payment from the Department. It was later established that on September 24, 2015, the Department sent Claimant a Notice of Case Action advising her that effective October 18, 2015, her CDC case would be closed on the basis that she failed to provide requested verifications.

At the time that Claimant submitted her hearing request on August 7, 2015, the Department had not issued the Notice of Case Action dated September 24, 2015, advising Claimant of its determination that she was ineligible for CDC. (Exhibit C). Claimant confirmed that she did not receive any other denial or closure notices

concerning her CDC case. Therefore, it was established that there was no negative action taken by the Department concerning Claimant's CDC benefits prior to Claimant requesting a hearing. As such, Claimant's hearing request with respect to CDC is **DISMISSED**. Claimant is informed that she is entitled to submit a new hearing request to dispute the Notice of Case Action dated September 24, 2015, and the subsequent closure of her CDC case should she so choose.

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 \$110. At the hearing, the Department presented the FAP EDG Net Income Results Budget which was reviewed to determine if the Department properly calculated the amount of Claimant's FAP benefits. (Exhibit D).

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 weekly is converted to a standard amount by multiplying the average of the weekly pay amounts by the 4.3 multiplier. BEM 505, pp. 7-8.

The Department concluded that Claimant had earned income in the amount of \$1222 which it testified came from Claimant's employment and weekly pay. The Department relied on the information contained in the Work Number and specifically considered: (i) \$297.31 paid on July 2, 2015; (ii) \$322.58 paid on July 9, 2015; (iii) \$229.99 paid on July 16, 2015; and (iv) \$248.96 paid on July 23, 2015. (Exhibit E). After further review and in consideration of the prospective budgeting policy referenced above, the Department properly calculated Claimant's earned 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 \$245 and there was no evidence presented that she had any out of pocket dependent care, or child support expenses, therefore, the budget properly did not include any deduction for dependent care expenses or child support, expenses. 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. The Department also properly applied the \$34 telephone standard, as Claimant confirmed that she did not have any housing expenses or utility expenses including heating, cooling, electric, or water.

After further review, the Department properly reduced Claimant's total gross income of \$1222 by the \$245 earned income deduction and the \$154 standard deduction, resulting in monthly net income of \$823. Based on net income of \$823 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 \$110. BEM 556; RFT 260 (October 2014), p. 11.

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.

DECISION AND ORDER

Accordingly, the hearing request with respect to CDC is **DISMISSED** and the Department's FAP decision is **AFFIRMED**.



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

Date Signed: **10/9/2015**

Date Mailed: **10/9/2015**

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.

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]
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