

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201153901
Issue No.: 5012, 6015
Case No.: [REDACTED]
Hearing Date: October 20, 2011
County: Kalamazoo County DHS

ADMINISTRATIVE LAW JUDGE: C. Adam Purnell

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 following Claimant's request for a hearing. After due notice, a telephone hearing was held on October 20, 2011, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] and [REDACTED]. Participants on behalf of Department of Human Services (Department) included [REDACTED] Family Independence Specialist (F.I.S.) and [REDACTED], Office of Inspector General (O.I.G.).

ISSUES

1. Did the Department properly deny Claimant's application for State Emergency Relief (SER) assistance with shelter emergency?
2. Did the Department properly deny Claimant's application for Child Development and Care (CDC) benefits?
3. Did the Department properly determine Claimant's eligibility for Medical Assistance (MA)?
4. Did the Department properly fail to remove one of Claimant's group members from Claimant's household during a Front End Eligibility (FEE) investigation?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. In July, 2011, Claimant was active for FIP and FAP and had a group size of 6 (six).

2. At the time, Claimant's boyfriend ([REDACTED]) a group member who had been enrolled in the Jobs, Education & Training (JET) program, was not in compliance with JET.
3. On August 1, 2011, Claimant reported to the Department that [REDACTED] had moved out of the house and requested that the Department promptly remove him from her household as a group member. (Department Exhibit 19).
4. On or about August 1, 2011, the Department did not remove [REDACTED] from Claimant's home, but instead requested a Front End Eligibility (FEE) investigation from the O.I.G. because the issue whether [REDACTED] was actually living in Claimant's home was questionable.
5. O.I.G./FEE Agent [REDACTED], conducted the FEE investigation and concluded that [REDACTED] lived in the household with Claimant and their children during the time period in question.
6. On August 3, 2011, Claimant applied for MA benefits. (Department Exhibits 30-47).
7. On August 10, 2011, Claimant applied for SER assistance with shelter emergency. (Department Exhibits 2-7). Specifically, Claimant requested assistance with rent ([REDACTED]) and security deposit ([REDACTED]). (Department Exhibit 2).
8. Claimant's monthly net countable income from Family Independence Program (FIP) benefits, or cash assistance, was [REDACTED]5 and her total housing expense (rent) was [REDACTED]. (Department Exhibit 12).
9. On August 10, 2011, Claimant applied for CDC benefits. (Department Exhibits 14-18).
10. On August 15, 2011, the Department mailed Claimant a State Emergency Relief Decision Notice (DHS-1419), which denied Claimant's request because her shelter was not affordable. (Department Exhibit 10).
11. During a telephone interview, Claimant indicated that the CDC provider was a relative provider, [REDACTED], (who purportedly was married to Claimant's sister; [REDACTED]). Claimant indicated that [REDACTED] was to provide day care in Claimant's home. (Department Exhibits 19-25).
12. The Department later discovered during the FEE investigation that [REDACTED] and [REDACTED] were not married.
13. On August 25, 2011, the Department mailed Claimant a DHS-1605 (Notice of Case Action), which denied Claimant's CDC application due to ineligibility. (Department Exhibits 25-28).

14. On August 30, 2011, the Department approved Claimant's application for MA benefits. (Department Exhibit 55).

15. On August 29, 2011, the Department received Claimant's hearing request regarding the following programs: SER, CDC, MA and FAP.¹

CONCLUSIONS OF LAW

The client has the right to request a hearing for any action, failure to act or undue delay by the department. BAM 105. The department provides an administrative hearing to review the decision and determine its appropriateness. BAM 600.

The regulations that govern the hearing and appeal process for applicants and recipients of public assistance in Michigan are contained in the Michigan Administrative Code (Mich Admin Code) Rules 400.901 through 400.951. An opportunity for a hearing shall be granted to a recipient who is aggrieved by an agency action resulting in suspension, reduction, discontinuance, or termination of assistance. Mich Admin Code 400.903(1).

The Child Development and Care program is established by Titles IVA, IVE, and XX of the Social Security Act, the Child Care and Development Block Grant of 1990, and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The program is implemented by Title 45 of the Code of Federal Regulations, Parts 98 and 99. The Department of Human Services (DHS or Department) provides services to adults and children pursuant to MCL 400.14(1) and MAC R 400.5001-5015. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), Reference Table Manual (RFT), and the Bridges Reference Manual (BRM).

The Department may provide a subsidy for child care services for qualifying families when the parent(s)/substitute parent(s) is unavailable to provide the child care because of employment, participation in an approved activity and/or because of a condition for which treatment is being received and care is provided by an eligible provider. BEM 703.

Generally speaking, clients have the right to choose the type of child care provider they wish to use. BEM 704. However, care must be provided in Michigan by an eligible provider. BEM 704. Eligible providers are those monitored by DHS, Bureau of Children and Adult Licensing (BCAL), or enrolled by DHS. BEM 704. Those monitored by the BCAL are:

¹ Although Claimant requested a hearing regarding FAP, there was no negative action taken by the Department regarding her FAP benefits. Claimant's request concerning FAP was based on her belief that the Department should have removed [REDACTED] from her case, which presumably would have decreased her group size and, in turn, increase her FAP allotment.

- Child care centers.
- Group child care homes.
- Family child care homes. BEM 704.

Another group of providers recognized by the department are unlicensed providers. BEM 704. These providers are enrolled by DHS and are not required to be registered or licensed by BCAL. BEM 704. An unlicensed provider is an adult who is 18 years or older, enrolled by DHS to provide care for up to 4 children at a time, and meets one of the following categories:

- Is providing care where the child lives.
- Is providing care in the provider's home, not the home of the child, and is related to the child by blood, marriage or adoption as a:
 - Grandparent/great-grandparent.
 - Aunt/great-aunt.
 - Uncle/great-uncle.
 - Sibling.

A divorce severs/terminates a relationship gained through marriage. BEM 704. Unlicensed providers who are also licensed or registered by BCAL as family or group child care homes, should be paid as family or group child care homes, not as an unlicensed provider. BEM 704. A DHS-220, Child Development and Care Unlicensed Provider Application is only required for a licensed or registered provider who provides care in the home of the child, if the provider does not live with the child.

An unlicensed provider's service is ended in Provider Management if:

- The unlicensed provider has not received a payment for four consecutive months. Closure reason will read "no activity/payments for this provider service type." BEM 704.
- The unlicensed provider has not completed the basic training requirement with four months. Closure reason will read "failure to complete basic training requirement." BEM 704.
- The provider does not comply with a request by the Central Reconciliation Unit for time and attendance records. Closure reason will read "failed to respond to CRU." The provider does not maintain time and attendance records as determined by the Central Reconciliation Unit. Closure reason will read "failed to maintain time and attendance records." BEM 704.
- Undeliverable mail is received. A closure reason "unable to locate provider" will be entered in Provider Management. BEM 704.
- Provider fails to submit records requested by the Office of Inspector General. A closure reason "CDC not eligible due to Office of Inspector General review" will be entered in Provider Management. BEM 704.

The Department may request a Front End Eligibility (FEE) investigation from the O.I.G. to complete a home visit to verify if the parent is out of the home. BEM 233A. The Department worker is instructed not to determine eligibility on the pending FIP EDG closure until the FEE agent completes an investigation. BEM 233A.

The State Emergency Relief (SER) program is established by 2004 PA 344. The SER program is administered pursuant to MCL 400.10, et seq., and by, 1993 AACS R 400.7001-400.7049. Department policies are found in the State Emergency Relief Manual (ERM). Housing affordability is a condition of eligibility for SER and applies to relocation services. ERM 207. The Department will authorize SER for services only if the SER group has sufficient income to meet ongoing expenses. ERM 207. An SER group that cannot afford to pay their ongoing housing costs plus any utility obligations will not be able to retain their housing, even if SER is authorized. ERM 207. The Department will deny SER if the group does not have sufficient income to meet their total housing obligation. ERM 207. The total housing obligation cannot exceed 75 percent of the group's total net countable income. ERM 207.

Here, Claimant requested a hearing regarding the following programs: SER, CDC, MA and FAP. The Department has introduced evidence that the Claimant's MA and FAP programs have not been closed, denied, reduced or delayed. Accordingly, Claimant's request for hearing regarding MA and FAP are hereby dismissed because there is no negative action taken by the Department affecting these two programs rendering the ALJ without jurisdiction.

This leaves Claimant's SER and CDC benefits. First, with regard to SER, Claimant applied for SER seeking relocation assistance. There is no dispute that at the time of application, Claimant's net countable income consisted of FIP in the amount of [REDACTED]. There was no evidence that Claimant had any other income. Her housing obligation (rent) was [REDACTED] per month. Her housing obligation is greater than her monthly income. Because Claimant did not have any other income, she could not meet her total housing obligation. Therefore, Claimant was not eligible for SER.

With regard to Claimant's CDC application, this ALJ finds that Claimant did not have an acceptable provider. Claimant offered Kavin Fleming as the relative provider for her children for CDC purposes because he was married to her sister. However, the evidence shows that [REDACTED] was not married to Claimant's sister and was not otherwise related to Claimant. Accordingly, [REDACTED] is not an eligible, unlicensed relative provider.

The evidence was clear that questions remain regarding Claimant's group composition. Claimant has submitted numerous applications for assistance and some of the applications list different household members. The Department has had considerable difficulty obtaining verification regarding whether [REDACTED] lives in Claimant's household. It was these very issues that prompted the FEE investigation regarding [REDACTED] and his JET case. During the FEE investigation, the Department was under no obligation to remove

█. from Claimant's household group. Under these circumstances, Claimant's FAP would not be increased and the Department acted appropriately.

Based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, the Administrative Law Judge concludes that the Department properly denied Claimant's CDC and SER application. Similarly, the Department appropriately did not remove V.H. from Claimant's case without verification.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law finds that the Department did act properly. Accordingly, the Department's decision with regard to Claimant's CDC and SER applications is **AFFIRMED**.

With regard to Claimant's request for hearing regarding FAP and MA, the Claimant's request for hearing is dismissed due to lack of jurisdiction. There was no action taken by the Department that adversely affected Claimant's FAP and/or MA benefits.

/s/ _____
C. Adam Purnell
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: November 4, 2011

Date Mailed: November 7, 2011

NOTICE: Michigan Administrative Hearing System (MAHS) may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. MAHS will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the mailing of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the receipt date of the rehearing decision.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
 - misapplication of manual policy or law in the hearing decision,
 - typographical errors, mathematical error , or other obvious errors in the hearing decision that effect the substantial rights of the claimant;
 - the failure of the ALJ to address other relevant issues in the hearing decision

2011-53901/CAP

Request must be submitted through the local DHS office or directly to MAHS by mail at
Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-07322

CAP/cr

cc:

