

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

IN THE MATTER OF:



New Reg. No.: 14-002150-RECON
Old Reg. No.: 14-002150
Issue No.: 2000, 3007, 6002
Case No.: [REDACTED]
Hearing Date: June 10, 2014
County: Genesee County (2)

ADMINISTRATIVE LAW JUDGE: Darryl Johnson

DECISION AND ORDER OF RECONSIDERATION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; and Mich Admin Code 400.919 upon a request of the Department of Human Services (Department) for a reconsideration of the hearing decision rendered at the conclusion of the June 10, 2014, hearing conducted by the assigned Administrative Law Judge. The decision was mailed on June 18, 2014. An Order Granting Request for Reconsideration was mailed on October 29, 2014, and an Amended Order Granting Request for Reconsideration was mailed on November 3, 2014.

ISSUE

Did the assigned Administrative Law Judge (ALJ) err when he affirmed the Department's denial of Claimant's application for Food Assistance Program (FAP), Child Development and Care (CDC) Program, and Medical Assistance (MA) benefits?

FINDINGS OF FACT

Upon a review of the entire hearing record, including the recorded testimony and evidence admitted, this ALJ, makes the following findings of fact:

1. Claimant was an ongoing recipient of Medical Assistance, Food Assistance Program and Child Development and Care Program benefits for herself and her daughter.
2. On January 13, 2014, [REDACTED] became a member of Claimant's household.
3. On March 25, 2014, Claimant submitted an application for Family Independence Program, Medical Assistance, Food Assistance Program and Child Development and Care Program benefits. (Pages 7-46) [REDACTED] was listed as a member of the household. The application indicated that: (1) [REDACTED]: had not been convicted of a drug felony; (2) had applied for Social Security Administration disability benefits but been denied; and (3) had no source of income.

4. On March 31, 2014, Claimant was sent a notice that her Child Development and Care Program benefits ended as of March 23, 2014, the first day of the two-week CDC billing period during which the Department was notified of both parents being in the household.
5. On April 4, 2014, Claimant participated in a telephone interview with the Department. Claimant reported that [REDACTED] was unable to provide care for their daughter due to his mental instability. Claimant was informed approval for CDC benefits would require medical verification that [REDACTED] was unfit to provide care but was not a danger to the child.
6. On April 14, 2014, the Department received medical documentation about [REDACTED] generated by Hope Network. (Pages 64-73)
7. On April 21, 2014, the Department searched the Offender Tracking Information System (OTIS) and found that [REDACTED] had five sentences for drug-related convictions. Claimant was sent a Notice of Case Action (DHS-1605), which stated [REDACTED] was not eligible for Food Assistance Program benefits in accordance with Bridges Eligibility Manual (BEM) 203 (2013). The notice also stated Claimant and her daughter were eligible for \$ [REDACTED] per month of Food Assistance Program benefits.
8. On April 25, 2014, the Department made contact with [REDACTED]. A Medical Needs PATH (DHS-54-E) was faxed to [REDACTED] with instructions to have the form completed by a Doctor.
9. On April 30, 2014, Claimant submitted a hearing request.
10. On May 5, 2014, the Department had still not received adequate verification of CDC need. The CDC benefits were not reinstated.
11. On June 10, 2014, a telephone hearing was conducted from Lansing, Michigan. Claimant personally participated along with [REDACTED], who is a member of the household and the father of Claimant's child. Participants on behalf of the Department included Eligibility Specialist [REDACTED] and Hearing Facilitator [REDACTED].
12. On June 18, 2014, the ALJ affirmed the Department's decision regarding FAP eligibility and CDC application denial.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), Department of Human Services Reference Tables Manual (RFT), and Department of Human Services Emergency Relief Manual (ERM).

Food Assistance Program

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food Stamp Act of 1977, 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 Family Independence Agency) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001 to .3015.

Claimant and [REDACTED] requested a hearing with regard to the amount of FAP benefits. That issue contains two separate aspects. One is the exclusion of [REDACTED] from the benefit group. The other aspect raised by Claimant is the calculation of the group's net income used to determine the amount of FAP benefits. First [REDACTED] eligibility in accordance with BEM 203 will be addressed. The relevant section of BEM 203 states:

An individual convicted of a felony for the use, possession, or distribution of controlled substances two or more times in separate periods will be permanently disqualified if both offenses occurred after [REDACTED].

The Offender Tracking Information System (OTIS) shows the following record for [REDACTED]

Prison Sentences

Conviction by plea for Controlled Substance Delivery/Manufacture Methamphetamine MCL 333.74012B1 with a [REDACTED], date of offense and [REDACTED].

Conviction by plea for Controlled Substance Delivery/Manufacture Methamphetamine MCL 333.74012B1 with a [REDACTED], date of offense and [REDACTED], date of sentence.

Probation Sentences

Conviction by plea for Controlled Substance Possession of Marijuana MCL 333.74032D 333.74132 with a [REDACTED], date of offense and [REDACTED], date of sentence.

Conviction by plea for Controlled Substance Possession of Marijuana MCL 333.74032D 333.74132 with a [REDACTED], date of offense and [REDACTED], date of sentence.

Conviction by plea for Controlled Substance Possession of Marijuana MCL 333.74032D 333.74132 with a [REDACTED], date of offense and [REDACTED], date of sentence.

[REDACTED] does not dispute that the two prison sentence convictions are felonies but argues they are not convictions in separate periods because he was sentenced for both, on the same day. The fact that [REDACTED] was sentenced for two separate felony offenses, which occurred on separate dates, is correct. The policy addresses criminal acts in separate periods of time. [REDACTED] was convicted once for his criminal acts of [REDACTED], and convicted again of separate criminal acts committed [REDACTED]. He was convicted of two separate drug felonies committed in two separate periods. The issue is whether the offenses occurred in separate periods after [REDACTED]. The fact that he was sentenced for two felonies on the same date does not provide an opportunity for him to escape the disqualification.

██████████ was correctly determined ineligible for Food Assistance Program benefits on April 21, 2014. During this hearing, ██████████ testified that he had previously been receiving Food Assistance Program benefits under his own case and wished the handling of his separate FAP case to be an issue in this hearing. The source of jurisdiction for this hearing is a hearing request regarding a Department action on Claimant's case. In the absence of a hearing request submitted within 90 days of notice on a Department action to a specific assistance case, there is no jurisdiction.

The calculation of the group's net income was reviewed during the hearing. All other incomes and expenses in the Food Assistance Program financial eligibility budget remained the same. Claimant submitted four, weekly paycheck stubs from the 30-day period prior to the application for use in calculating FAP eligibility. (Pages 55-58) The gross amount of the checks was: \$██████████ on ██████████; \$██████████ on ██████████; \$██████████ on ██████████; and \$██████████ on ██████████. The Department case worker testified that the ██████████, check was not used because it was not reflective of normal pay amounts based on Claimant's historic income and the three checks themselves. Bridges Eligibility Manual (BEM) 505 (2014) page 5.

The earned income reflected in the determination of Claimant's Food Assistance Program eligibility was \$██████████ (██████████). ██████████ = ██████████.

All other portions of the Food Assistance Program financial eligibility budget remained the same, including only 2 people in the group. Mathematical calculations made by the BRIDGES program are reliable so verification of the correct amount of earned income is sufficient to ensure the FAP eligibility determination of April 21, 2014, was correct.

Child Development and Care Program

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.

Claimant and ██████████ raised the CDC issue of closure beginning March 23, 2014. That action was taken by the Department when it became known that ██████████ was in the household and there was no apparent reason that he was not able to provide care for his daughter. Approval of CDC benefits requires that each parent/substitute parent (P/SP) of the child needing care must have a valid need reason for the time period that child care is requested. Bridges Eligibility Manual (BEM) 703 (2014) Once Claimant informed the Department that ██████████ was incapable of caring for their daughter, the Department requested verification to support the CDC application. Claimant was informed that the Department needed a statement from a Doctor that ██████████ was unfit to provide care but was not a danger to the child.

A cover letter and psychiatric evaluation of ██████████ done by Hope Network was submitted on ██████████. The evaluation was done on ██████████. The letter described the conditions for which ██████████ is being treated. The letter also stated that ██████████ reported he is not a danger to his child and that **he reports** his symptoms interfere with his ability to provide care. Exhibit 1, Page 64 is the letter from ██████████, received by the Department on ██████████. The letter's concluding statement is: "██████████ reports his symptoms interfere with his ability to provide care." There is no finding by a qualified professional that he is unable to provide care. There is only a self-reported statement that his symptoms interfere with his ability to provide care. ██████████ asserts that the ██████████ documentation is sufficient. He refers to BEM 703 page 5 and asserts that the ██████████ documentation fulfills the family preservation need reason "Unable to provide care due to a condition for which they are being treated by a physician." The fact that ██████████ has a condition which he is being treated for does not fulfill the requirement of medical verification that he is unable to care for his daughter due to the condition. The ██████████ documentation does not contain a statement from a Doctor, or any medical professional, that ██████████ is unable to care for his daughter. The ██████████ documentation is not sufficient verification of a need for CDC benefits.

Subsequently, the Department contacted ██████████ and attempted to obtain required verification of a need reason. ██████████ did not provide a signed statement that ██████████ was unable to care for his daughter.

Medical Assistance

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act, 42 USC 1396-1396w-5, and is implemented by 42 CFR 400.200 to 1008.59. The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10 and MCL 400.105.

The assigned ALJ indicated in the Decision that no jurisdiction exists to address Claimant's April 30, 2014, hearing request about Medical Assistance. He dismissed that component of the hearing request on the basis that negative action occurred on the MA issue more than 90 days prior to the hearing request. A review of Claimant's March 25, 2014, application (Exhibit 1 Pages 7 et seq) establishes that she had applied for MA. The Notice of Case Action dated April 21, 2014, does not include any indication whether the Department acted on her application for MA. In her hearing request, Claimant specifically stated, "Medical for ██████████ d Child Care for ██████████ were requested and no action (approved/denied) has been taken." As stated in BAM 600 (10/1/14), a Claimant can request reconsideration based upon "Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request."

BAM 115 (7/1/14) explains the Standards of Promptness (SOPs) guiding Department action. It states, at page 7:

SDA, RCA, RMA, CDC and MA Only

Certify program approval or denial of the application within 45 days.
Bridges automatically generates the client notice.

It goes on to state on that same page:

MA Only

The SOP for an **initial asset assessment** begins the date the local office receives a signed DHS-4574-B, Assets Declaration. Complete the assessment and mail the client and spouse a notice within 45 days; see BEM 402.

The assigned ALJ did not address the issue of MA, which was raised in the hearing request, other than to take limited evidence on the timing of the request relative to the prior Department action, and then he dismissed the MA issue. Because the Claimant had applied for MA, and the Department had not taken action on that part of her application, the issue should have been heard.

DECISION AND ORDER

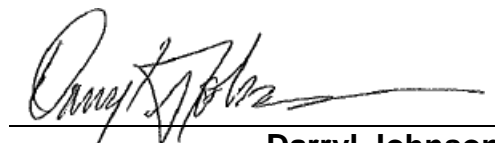
The undersigned Administrative Law Judge, based upon the above findings of fact and conclusions of law, **AFFIRMS** the assigned ALJ's Hearing Decision under Registration Number 14-002150 regarding FAP and CDC, and affirms the Department's April 21, 2014, of Case Action. The undersigned **REVERSES** that part of the assigned ALJ Hearing Decision regarding MA.

Accordingly, the assigned ALJ's decision is **AFFIRMED in part** and **REVERSED in part**.

THE DEPARTMENT IS ORDERED INITIATE 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:

- Redetermine Claimant's household MA eligibility back to the date of closure (and request a ticket if necessary).
- Following the redetermination of MA benefits, communicate the Department's findings regarding MA eligibility with Claimant's household in writing.

IT IS SO ORDERED.



Darryl Johnson
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 12/08/14

Date Mailed: 12/08/14

DJ/sw

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.

cc:

