

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-002150
Issue No.: 2000, 3007, 6002
Case No.: [REDACTED]
Hearing Date: June 10, 2014
County: Genesee County DHS #2

ADMINISTRATIVE LAW JUDGE: Gary F. Heisler

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, a telephone hearing was held on June 10, 2014, from Lansing, Michigan. Participants on behalf of Claimant included herself and [REDACTED] who is a member of the household and the father of Claimant's child. Participants on behalf of the Department of Human Services (Department) included ES [REDACTED] and Hearing Facilitator [REDACTED]. During this hearing it was determined that no jurisdiction exists to address Claimant's April 30, 2014 hearing request about Medical Assistance. The Medical Assistance portion of this hearing is dismissed.

ISSUE

Did the Department properly determine Claimant's Food Assistance Program eligibility on April 21, 2014?

Did the Department properly deny Claimant Child Development and Care Program benefits beginning March 23, 2014?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material 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 stated [REDACTED]: had not been convicted of a drug felony; had applied for Social Security Administration disability benefits but been denied; and 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] [REDACTED] generated by [REDACTED]. (Pages 64-73)
7. On April 21, 2014, The Department searched the Offender Tracking Information System (OTIS) and found that [REDACTED] had 5 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 \$137 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.

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 ██████ requested a hearing with regard to the amount of FAP benefits. That issue contains two separate aspects. One is the exclusion of ██████ 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 ██████ 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 August 22, 1996.

The Offender Tracking Information System (OTIS) shows the following record for Mr. Zerbe:

Prison Sentences

Conviction by plea for Controlled Substance Delivery/Manufacture Methamphetamine MCL 333.74012B1 with a February 1, 2005 date of offense and September 14, 2005 date of sentence.

Conviction by plea for Controlled Substance Delivery/Manufacture Methamphetamine MCL 333.74012B1 with a March 4, 2005 date of offense and September 14, 2005 date of sentence.

Probation Sentences

Conviction by plea for Controlled Substance Possession of Marijuana MCL 333.74032D 333.74132 with a September 8, 2007 date of offense and January 28, 2008 date of sentence.

Conviction by plea for Controlled Substance Possession of Marijuana MCL 333.74032D 333.74132 with a January 10, 2012 date of offense and July 30, 2012 date of sentence.

Conviction by plea for Controlled Substance Possession of Marijuana MCL 333.74032D 333.74132 with a January 10, 2012 date of offense and July 30, 2012 date of sentence.

██████ 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 ██████ 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 February 1, 2005, and convicted again of separate criminal acts committed March 4, 2005. He was convicted of two separate drug felonies committed in two separate periods. Time management of the courts by addressing his separate criminal acts of different dates at the same time, does not make the separate criminal acts one. For example, if a defendant is convicted and sentenced for two murders on two separate dates of two separate people, the two separate persons and their corpses do not magically become only one person and corpse.

[REDACTED] was correctly determined ineligible for Food Assistance Program benefits on April 21, 2014. During this hearing [REDACTED] 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: \$ [REDACTED] on February 28, 2014; \$ [REDACTED] on March 7, 2014; \$ [REDACTED] on March 14, 2014; and \$ [REDACTED] on March 21, 2014. The Department case worker testified that the March 14, 2014 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 \$ [REDACTED]

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 [REDACTED] raised the CDC issue of closure beginning March 23, 2014. That action was taken by the Department when it became known that Mr. Zerbe 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 [REDACTED] 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 [REDACTED] was unfit to provide care but was not a danger to the child.

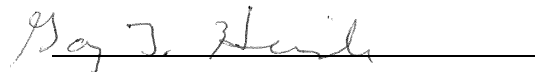
A cover letter and psychiatric evaluation of [REDACTED] done by [REDACTED] was submitted on April 14, 2014. The evaluation was done on December 2, 2013. The letter described the conditions for which [REDACTED] is being treated. The letter also stated that [REDACTED] reported he is not a danger to his child and that his symptoms interfere with his ability to provide care. [REDACTED] asserts that the [REDACTED] documentation is sufficient. He refers to BEM 703 page 5 and asserts that the [REDACTED] 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 [REDACTED] 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 Hope Network documentation does not contain a statement from a Doctor, or any medical professional, that [REDACTED] is unable to care for his daughter. The [REDACTED] documentation is not sufficient verification of a need for CDC benefits.

Subsequently, the Department contacted [REDACTED] and attempted to obtain required verification of a need reason. [REDACTED] did not provide a signed statement that [REDACTED] was unable to care for his daughter. This act of assistance by the Department was not required by 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 determined Claimant's Food Assistance Program eligibility on April 21, 2014 and denied Claimant Child Development and Care Program benefits beginning March 23, 2014.

DECISION AND ORDER

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



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

Date Signed: **6/18/2014**

Date Mailed: **6/18/2014**

GFH / hj

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 48909-07322

CC:

