

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF: [REDACTED]

Claimant

Reg. No: 2008-20200
Issue No: 2014; 6019
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
March 24, 2009
Ionia County DHS

ADMINISTRATIVE LAW JUDGE: Suzanne L. Keegstra

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon claimant's request for a hearing. After due notice, a telephone hearing was held on March 24, 2009. The claimant personally appeared and testified.

ISSUES

1. Did the department properly deny the claimant's Child Development and Care (CDC) application for noncooperation with the Office of Child Support (OCS) requirements on May 7, 2008?
2. Was the claimant properly disqualified from Medical Assistance (MA) benefits for noncooperation with the Office of Child Support (OCS) requirements on April 30, 2008?

FINDINGS OF FACT

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

1. The claimant applied for Child Development and Care (CDC) benefits on March 15, 2008 (Department #1 – 4).
2. The claimant was sent a notice that her MA (L) benefits would end on April 30, 2008, as this was two months after having her baby ([REDACTED]) (Department 10 – 12).
3. The claimant's application for CDC benefits was denied on May 7, 2008, because the claimant had been determined to be noncooperative in providing paternity information to the Office of Child Support (OCS) (Department 9).
4. The claimant's noncooperation status was removed on May 16, 2008, when she provided enough information for a referral to be sent to the Prosecuting Attorney's office (Department 13).
5. The claimant submitted a hearing request on May 9, 2008 (Hearing Request).

CONCLUSIONS OF LAW

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department of Human Services (DHS or department) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105. Department policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

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 contained in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

Department policy states:

DEPARTMENT PHILOSOPHY

Families are strengthened when children's needs are met. Parents have a responsibility to meet their children's needs by providing support and/or cooperating with the department including the Office of Child Support (OCS), the Friend of the Court and the prosecuting attorney to establish paternity and/or obtain support from an absent parent. PEM 255, p. 1.

DEPARTMENT POLICY

FIP, CDC Income Eligible, MA and FAP

Clients must comply with all requests for action or information needed to establish paternity and/or obtain child support on behalf of children for whom they receive assistance, unless a claim of good cause for not cooperating has been granted or is pending.

Absent parents are required to support their children. Support includes **all** the following:

- . Child support
- . Medical support
- . Payment for medical care from any third party.

Note: For purposes of this item, a parent who does not live with the child due solely to the parent's active duty in a uniformed service of the U.S. is considered to be living in the child's home.

Failure to cooperate without good cause results in disqualification. Disqualification includes member removal, denial of program benefits, and/or case closure, depending on the program.

Exception: A pregnant woman who fails to cooperate may still be eligible for MA.

FIP

All rights to past, current and future child support paid for a FIP recipient must be assigned to the state as a condition of FIP eligibility. Spousal support included in a child support order must also be assigned. PEM 255, p. 1.

CHILD SUPPORT REFERRAL REQUIREMENTS BY PROGRAM

Who Must be Referred?

FIP, CDC Income Eligible, MA and FAP

Refer unmarried children who have no legal father or who have a legal parent absent from the home, to the OCS for child support action.

Exception: The following children are not referred to OCS:

- . Children whose absent parent is deceased.
- . Children adopted by a single parent only.
- . Teen and minor parents acting as the adult case member.
PEM 255, p. 5.

COOPERATION

FIP, CDC Income Eligible, MA and FAP

Cooperation is a condition of eligibility. The following persons in the eligible group are required to cooperate in establishing paternity and obtaining support, unless good cause has been granted or is pending.

- . Grantee and spouse.
- . Specified relative/person acting as a parent and spouse.
- . Parent of the child for whom paternity and/or support action is required.

Cooperation is required in all phases of the process to establish paternity and obtain support and includes **all** of the following:

- . Contacting the SS when requested.
- . Providing all known information about the absent parent.

- Appearing at the office of the prosecuting attorney when requested.
- Taking any actions needed to establish paternity and obtain child support (e.g., testifying at hearings or obtaining blood tests).

FIP

Cooperation includes repaying to the department any court-ordered support payments received after the payment effective date.

MA

Cooperation is required for an active deductible case once the first period of MA coverage is authorized. This requirement continues as long as the case is active and includes periods for which MA coverage is **not** authorized. PEM 255, p. 8.

Support Specialist Determines Cooperation

FIP, CDC Income Eligible, MA and FAP

The SS determines cooperation for required support actions. He/she will notify you of failure to cooperate.

Exception: You determine noncooperation for failure to return court-ordered support payments received after the payment effective date.

Cooperation is assumed unless and until you are notified of non-cooperation by OCS. The noncooperation continues until you are notified of cooperation by OCS or cooperation is no longer an eligibility factor. PEM 255, pp. 8-9.

SUPPORT DISQUALIFICATION

FIP, CDC Income Eligible, MA and FAP

You will be notified of a client's failure to cooperate by the SS or the child support noncooperation report. Start the support disqualification procedure upon receipt of this notice.

Do **not** impose the disqualification if any of the following occur during the negative action period:

- . You are notified by OCS that the client has cooperated.
- . The case closes for another reason.
- . The noncooperative person leaves the group.
- . Support/paternity action is no longer a factor in the child's eligibility (e.g., the child leaves the group).
- . **For disqualifications based on failure to return court-ordered support**, the client cooperates with the requirement of returning court-ordered support payments or the support order is certified. PEM 255, p. 9.

Support Disqualification At Application

FIP, CDC Income Eligible, MA and FAP

Impose a support disqualification at application if:

- . There is a notice of noncooperation in the case record or the client appears on the noncooperation report; and
- . There is **not** a subsequent notice that the noncooperating member has cooperated; and
- . Support/paternity action is still a factor in the child's eligibility; and
- . Good cause has not been granted nor is a claim pending (see "GOOD CAUSE FOR NOT COOPERATING" in this item).

Note: If client is cooperating at reapplication, but has not served the minimum one-month penalty for FIP, determine FIP eligibility for the month following the penalty month. PEM 255, p. 10.

CDC Disqualification

CDC Income Eligible

Failure to cooperate without good cause results in ineligibility for CDC. Initiate CDC closure or deny the CDC application when a client has been determined noncooperative with child support. PEM 255, p. 10.

MA Member Disqualification

MA

Failure to cooperate without good cause results in a disqualification. The person who failed to cooperate is **not** eligible for MA when:

- the child for whom support/paternity action is required receives MA, **and**
- the person and child live together.

Exception: Do **not** begin or continue a disqualification for failure to cooperate when a pregnant woman meets all other eligibility factors. Apply this exception:

- During the pregnancy, **and**
- For two (2) calendar months after the month the pregnancy ends. PEM 255, p. 10.

Removing a Support Disqualification

FIP, CDC Income Eligible, MA and FAP

Ask a disqualified person at application, redetermination or reinstatement if he/she is willing to cooperate. A disqualified person may indicate willingness to cooperate at any time.

Do **not** restore benefits to a disqualified person or reopen FIP or CDC income eligibility until the noncooperating person cooperates or support/paternity action is no longer needed. End the disqualification when:

- You are notified by OCS that the client has cooperated, or
- Support/paternity action is no longer a factor in the child's eligibility (e.g., child leaves the group), or
- For **FIP only**, the client cooperates with the requirement of returning court-ordered support payments, or the support order has been certified.

For **FIP and FAP only**, make sure that the minimum one-month disqualification has been served before restoring benefits or reopening. PEM 255, p. 12.

In this case, the claimant is disputing her placement by OCS on noncooperation status. The claimant testified that she provided all the information she had on the fact sheet and the OCS worker still found her noncooperative. The claimant and the department were mailed noncooperation notices dated April 30, 2008. In the letter, the OCS worker indicates that the claimant did not return the Fact Sheet within the requested time period, by April 30, 2008 (Department #5, 12). The OCS worker authored a second letter to the claimant and the department on May 6, 2008, that indicates she did, thereafter, receive the Fact Sheet from the claimant, but that there wasn't the necessary identifying information included to allow for a referral to the Prosecuting Attorney's office. The claimant called and spoke to the OCS worker and gave additional information and she was found to be cooperative on May 16, 2008 (Department 13).

Department policy requires the claimant to cooperate in the process of identifying the child's parent and in establishing paternity. PEM 255. The documentation provided by the OCS indicates that the claimant didn't turn in the Fact Sheet by the required due date and then, when it was turned in, the Fact Sheet did not contain enough information to properly identify the father. This is noncooperation with OCS requirements.

Department policy indicates that the department is to deny a CDC application when the claimant has been determined to be noncooperative with OCS. PEM 255. The department did properly deny the claimant's CDC application on May 7, 2008, as the claimant was not found to be cooperative until May 16, 2008.

The other hearing issue the claimant brings up is her MA disqualification. The claimant was receiving MA-L when she was pregnant and for the two calendar months after the month she gave birth. PEM 125. The claimant had her baby on [REDACTED] Thus, she was eligible

for Healthy Kids for Pregnant Women (HKP) through April 30, 2008. The claimant has excess income to receive MA without a deductible. However, as of April 30, 2008, the claimant was disqualified for MA benefits due to the paternity noncooperation. Department policy indicates if the child, who is the subject of the paternity/support action, is receiving MA and the person who failed to cooperate lives with the child, then the person who failed to cooperate is disqualified. Thus, the department followed policy when the worker disqualified the claimant at the expiration of her Healthy Kids for Pregnant Women coverage.

It is noted that the claimant reapplied for benefits on May 11, 2008. She was determined to be cooperative on May 16, 2008 by the OCS. Thus, her application for CDC and MA benefits (a spend-down or deductible case) was approved at that time.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department properly took action to deny the claimant's CDC benefit application for noncooperation with OCS on May 7, 2008, and that the claimant was properly disqualified from MA on April 30, 2008.

Accordingly, the department's actions are AFFIRMED. SO ORDERED.

/s/

Suzanne L. Keegstra
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: April 1, 2009

Date Mailed: April 2, 2009

NOTICE: Administrative Hearings 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. Administrative Hearings 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.

SLK 

cc:

