

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: 2009-25717
Issue No: 2006; 3008
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
July 16, 2009
Calhoun County DHS

ADMINISTRATIVE LAW JUDGE: Ivona Rairigh

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 three-way telephone hearing was held on July 16, 2009. Claimant personally appeared and testified from her home telephone.

ISSUE

Did the department properly take action to sanction claimant's Medicaid (MA) and Food Assistance Program (FAP) benefits due to her alleged noncooperation with the Office of Child Support (OCS)?

FINDINGS OF FACT

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

1. Claimant was an MA and FAP recipient when she and the department were sent a Noncooperation Notice from OCS on May 15, 2009, stating she had failed to cooperate with the

child support program because she failed to attend two appointments with the Prosecuting Attorney's office.

2. On May 20, 2009, department took sanction action on claimant's MA and FAP benefits. This action was to take place on June 1, 2009 and result in removal of the claimant from MA coverage and removal from FAP benefits resulting in reduction of such benefits.

3. Claimant requested a hearing on June 2, 2009 and continues to receive MA and FAP benefits pending the outcome of this hearing.

4. Claimant's hearing request included a letter from her stating she had tried to contact OCS a number of times, leaving all the requested information, but has been unable to reach anyone to reschedule the appointments she did not make. Claimant further stated that she was scheduled on March 5th and called to reschedule due to lack of child care and left a voice mail, but did not receive a return telephone call.

5. Claimant continued by stating she was then scheduled for an appointment for April 21st but was out of town for a family obligation, and called OCS to leave a message to contact her. Claimant stated she again left all the requested information on voice mail, but no one again returned her telephone call.

6. Claimant finished her letter by giving paternal information consisting of first, middle and last name, detailed address with street number, street, town and zip code for the father of her child, stated he was unemployed due to an accident in July, 2008, that he was approximately 42 years-old, had short hair, has contributed his time and assisting with the use of safe secure care, and has helped in what way he can financially.

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 Food Assistance Program (FAP) (formerly known as the Food Stamp (FS) program) is established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations (CFR). The Department of Human Services (DHS or department) administers the FAP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3001-3015. Department policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

Departmental 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.

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).

That the claimant did not show up for two appointments with OCS is not in dispute.

Claimant however explained in detail on her hearing request that she called OCS repeatedly after

she could not make the appointments, one due to day care issues and another because she was out of town. Claimant stated that no one returned her telephone calls, and that she did leave messages with detailed information about the father of her child. Department's representative at the hearing states that OCS was not contacted upon receipt of claimant's hearing request to verify information provided by her and to find out if she had indeed called this entity. No one from OCS is present for this hearing, therefore there is no way to determine what else is needed from the claimant in order for her to be considered in compliance with child support. Claimant has clearly provided detailed information about the father of her child in her hearing request of June 2, 2009. A conclusion that she is in noncompliance with OCS cannot therefore be reached, as the department has no additional information about the child support issue and OCS staff are not available at the hearing.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department improperly took action to sanction claimant's MA and FAP benefits.

Accordingly, department's action is REVERSED. Department shall:

1. Continue claimant's MA and FAP benefits without a sanction.
2. Contact OCS to determine the status of claimant's alleged child support noncompliance and what other information she needs to provide, if any.

3. Claimant was advised that she must keep any future appointments with OCS if such appointments are needed, in order to avoid potential future sanctions of her MA and FAP benefits.

SO ORDERED.

/s/

Ivona Rairigh
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: July 21, 2009

Date Mailed: July 21, 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.

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