

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: 200931214
Issue No: 6015
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
August 25, 2009
Ionia County DHS

ADMINISTRATIVE LAW JUDGE: Robert J. Chavez

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 hearing was held on August 25, 2009.

ISSUES

Was the claimant's assistance application properly denied for failure to cooperate with the Office of Child Support?

Was the claimant's FIP case properly closed for noncompliance with work related activities?

FINDINGS OF FACT

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

- (1) On January 6, 2009, a referral was made to the Ionia County Prosecuting Attorney's office to establish paternity and obtain a support order for claimant's daughter.

- (2) On January 27, 2009, claimant asked the prosecuting attorney for an expedited appointment and was given one for 9am the next day.
- (3) Claimant did not attend that meeting and did not call to cancel.
- (4) Claimant did not attend a subsequent meeting on February 4, 2009 or call to cancel.
- (5) Claimant did not attend a third meeting on February 11, 2009 or call to cancel.
- (6) Claimant was notified of all appointments.
- (7) On March 27, 2009, the Office of Child Support contacted the claimant to offer her a chance to explain her failure to keep her appointments with the prosecuting attorney and inform her that there could be penalties if she did not cooperate.
- (8) Claimant did not respond to that letter.
- (9) On April 24, 2009, claimant was issued a non-cooperation notice that found that she had been non-cooperative in securing child support.
- (10) This letter was placed in claimant's DHS file.
- (11) Claimant did not make a claim of good cause for non-cooperation to OCS.
- (12) Claimant subsequently applied for FIP benefits on April 2, 2009.
- (13) Claimant was assigned to JET on April 29, 2009.
- (14) Claimant was subsequently non-participatory in JET.
- (15) Claimant's FIP application was denied.
- (16) Claimant was disqualified for FAP, MA, and FIP.
- (17) Claimant requested a hearing on July 21, 2009.

CONCLUSIONS OF LAW

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).

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 8 USC 601, *et seq.* The Department of Human Services (DHS or department) administers the FIP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3101-3131. The FIP program replaced the Aid to Dependent Children (ADC) program effective October 1, 1996. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM).

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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM).

Regulations governing the Office of Child Support (OCS) can be found in the IV-D Manual (4DM).

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. 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. BEM 255.

Non-cooperation exists when a client, without good cause, **willfully** and **repeatedly** fails or refuses to provide information and/or take an action resulting in delays or prevention of support action. 4DM 115. These actions can include interviews with a local prosecuting attorney. 4DM 115.

Before finding a client non-cooperative, the Support Specialist must establish and document that the client failed and/or refused to provide known or obtainable information and/or to take an action without an acceptable reason or excuse. 4DM 115. The goal of the cooperation requirement is to obtain support. Support specialists should find non-cooperation only as a last resort. 4DM 115.

A claimant may have good cause for non-cooperation. Good cause must first be claimed by a non-cooperative claimant. 4DM 120. Reasons for good cause must be evaluated by a support specialist. If approved, a claimant is given a good cause waiver and is not penalized for failing to pursue child support. 4DM 120.

In order to prove its case, OCS must provide documentation of the information and/or action requested of the client and that the client knew or could obtain the information or comply with the requested action. 4DM 115.

OCS contends that claimant was non-cooperative with a child support investigation, and for that reason, her benefits were ceased. After careful consideration the undersigned agrees.

Claimant was given three separate appointments to attend an interview at the local prosecutor's office, in order to pursue a child support order. The first interview was scheduled at the behest of the claimant. Claimant did not attend this interview, nor did she call the office to let them know she needed to cancel or reschedule. A second interview was given, and claimant failed to attend that interview or call to cancel. A third interview was scheduled, and claimant was a no call/no show for that interview as well.

Unable to contact the claimant, the prosecuting attorney referred the case back to OCS and OCS attempted to contact the claimant to inform her that there would be non-cooperation penalties if she did not contact them. The evidence varies at this point; claimant alleges that she did cooperate and attempted to respond to the OCS letter, leaving a message in an OCS voice mailbox. OCS claimed that she did not. Claimant was given extra time to return evidence of her attempts to contact OCS; as of the time of the writing, nothing has been returned.

However, the undersigned would point out that even if he accepts claimant's testimony at face value, claimant admitted during the hearing that she did not claim good cause during this phone call. Furthermore, this phone call would have only been useful in order to inform OCS that good cause existed; it did nothing to rebut the more substantive claim—that claimant failed to attend three scheduled interviews with the prosecuting attorney (one at her own request), with nary a phone call to even attempt to reschedule.

This is not to say that the Administrative Law Judge is unsympathetic to the claimant's arguments. The difficulties that claimant alleged at the hearing are of a delicate and often dangerous nature; had claimant simply spoken at any time to any party during this saga the reason she could not make the interviews, the undersigned would be extremely hesitant to uphold the Department actions.

However, the fact is inescapable that claimant did not communicate her difficulties at any time, and claimant admitted as much. The basic overarching test for any Administrative Law Judge is whether the actions of the Department were correct at the time of the action using the information the Department had on hand. At the time of the action, the only information the Department was aware of was that the claimant had missed three interviews in a row without a simple phone call, and had not responded in a relevant manner to the OCS request for reasons for her failure to cooperate. Claimant had been given every opportunity to cooperate with the

investigation, and to the Department's knowledge, had chosen not to. Non-cooperation is to be found only as a last resort. It is apparent to the Administrative Law Judge that this was the case. For that reason, the action of the Department must be upheld.

It should be noted that a finding of non-cooperation is never permanent. Claimant may at any time choose to cooperate with the Department, or request a good cause finding based upon her unique situation. Either of these two actions should result in the non-cooperation status being removed.

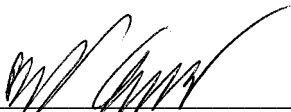
With regard to the JET noncompliance allegations, the undersigned will only note that, because of the non-cooperation notice in claimant's file, claimant should never have been going to JET in the first place because she was ineligible for FIP. Therefore, claimant could not have been noncompliant, and the issue is moot.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department's decision to find claimant non-cooperative was correct.

Claimant was not noncompliant with work-related activities, because claimant should not have been required to attend those work activities, due to her non-cooperation status and subsequent FIP ineligibility.

Accordingly, the Department's decision in the above stated matter is, hereby,
AFFIRMED.



Robert J. Chavez
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 03/22/10

Date Mailed: 03/26/10

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.

RJC/dj

cc:

