

ESTATE 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: 2009-14522
Issue No: 1003; 3008
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
March 26, 2009
Calhoun County DHS

ADMINISTRATIVE LAW JUDGE: Gary F. Heisler

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 March 26, 2009. Claimant appeared and testified.

ISSUES

- (1) Did the Department of Human Services properly close claimant's Family Independence Program (FIP) case due to non-cooperation with the Office of Child Support?
- (2) Did the Department of Human Services properly reduce claimant's Food Assistance Program (FAP) case due to non-cooperation with the Office of Child Support?

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 ongoing recipient of Family Independence Program (FIP) and Food Assistance Program (FAP) benefits.

(2) On October 14, 2008, the Office of Child Support determined claimant was in non-cooperation because she did not appear for genetic testing scheduled for October 1, 2008.

(3) On January 15, 2009, claimant and her DHS caseworker spoke about the Office of Child Support non-cooperation status. Claimant had a court appointment scheduled for January 29, 2009.

(4) On January 29, 2009, claimant appeared for the court hearing.

(5) On January 31, 2009, the DHS caseworker sent claimant notice her Family Independence Program (FIP) and Food Assistance Program (FAP) cases would be affected by the non-cooperation beginning in March, 2009.

(6) On February 6, 2009, [REDACTED] of the [REDACTED] [REDACTED] signed a Uniform Child Support Order for claimant's son.

(7) On February 11, 2009, claimant submitted a request for hearing.

CONCLUSIONS OF LAW

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 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).

In this case, claimant did miss an appointment for genetic testing. During the hearing claimant testified that she was out of town at the time and called to try and re-schedule the testing. Claimant testified she called the paralegal in the prosecutor's office and was told the testing could not, or did not need, to be rescheduled. It is obvious that claimant's over all actions with regard to establishing paternity were sufficient because a Uniform Child Support Order for claimant's son was achieved in Circuit Court.

The separation of authority between the Department's Office of Child Support and County Offices creates a unique problem in this case. Department policy provides the following guidance for County Office caseworkers. The department's policies are available on the internet through the department's website.

PEM 255 CHILD SUPPORT

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.

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** of the following:

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

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. See [“SUPPORT DISQUALIFICATION”](#) in this item.

**ROLE OF THE
SUPPORT
SPECIALIST
FIP, CDC Income Eligible, MA and FAP**

Support Specialists (SS) work for the Office of Child Support (OCS) within DHS as the liaison between DHS and local officials by:

- Accepting referrals/applications for child support services on behalf of public assistance recipients, as well as from the general public.
- Obtaining absent parent information from clients.
- Reviewing and offering comment on good cause claims.
- Notifying you of clients’ cooperation and/or non-cooperation.
- Referring appropriate cases to the local prosecutor or the Friend of the Court (FOC).

Note: The prosecutor takes legal action in court to obtain an order for support against the absent parent. The FOC enforces existing orders.

**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. See [“SUPPORT DISQUALIFICATION.”](#)

Exception: You determine non-cooperation 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 non-cooperation continues until you are

notified of cooperation by OCS or cooperation is no longer an eligibility factor.

Department policy provides the following guidance for Office of Child Support, support specialists. The department's policies are available on the internet through the department's website.

4DM 115 COOPERATION: NON-COOPERATION AND DISQUALIFICATIONS

LEGAL REQUIREMENTS

Federal and state laws and regulations require that applicants and recipients of FIP assistance, Medicaid and Food Stamps cooperate with the Child Support agency as a condition of eligibility. Child Day Care applicants and recipients are also subject to the cooperation requirement as required through state laws. Clients are required to cooperate with Child Support agencies in:

- Identifying and locating the non-custodial parent of a minor child for whom assistance is claimed;
- Establishing paternity of a child born out of wedlock for whom assistance is claimed;
- Obtaining support payments for the applicant or recipient and for the child for whom assistance is claimed.

Cooperation includes any of the following actions that are relevant to, or necessary for, the achievement of the objectives of the child support program:

- Appearing at an office of the State or local agency or the child support agency as necessary to provide verbal or written information, or documentary evidence, known to, possessed by, or reasonably obtainable by the applicant or recipient;
- Appearing as a witness at judicial or other hearings or proceedings;
- Providing information, or attesting to the lack of information, under penalty of perjury.

Federal regulations require the state to provide that, if the child support agency notifies the State or local agency of evidence of failure to cooperate, the State or local agency will act upon that information to enforce the eligibility requirements set forth. The plan should also provide that, if the caretaker fails to cooperate as required the State or local agency will deny assistance to the

caretaker without regard to other eligibility factors. Disqualifications vary according to the specific program.

AGENCY POLICY

The goal of the cooperation requirement is to obtain support. Agency policy is to find a client out of compliance with the cooperation requirement only as a last resort. Information provided by the client provides a basis for determining the appropriate support action. Cooperation from the client will enhance and expedite the process of establishing paternity and obtaining support.

COOPERATION

Definition

Applicants for, or recipients of assistance under the FIP, Medicaid, Food Stamps, and Day Care programs must cooperate with support efforts. Cooperation means, upon request, providing information or taking any action needed to establish paternity or obtain child or medical support.

Cooperation includes, but is not limited to, the following:

1. Identifying the non-custodial parent or alleged father;
2. Locating the non-custodial parent (including necessary identifying information and whereabouts, if known);
3. Appearing at reasonable times and places as requested to provide information or take legal action (e.g., appearing at the office of the Support Specialist, the Prosecuting Attorney, or the Friend of the Court, or as a witness or complainant at a legal proceeding);
4. Providing all known, possessed or reasonably obtainable information upon request which relates to establishing paternity and /or securing support;
5. Attesting to the lack of knowledge;
6. For non-FIP Day Care clients, completing and signing the application for IV-D services, FIA-1201, Non-FIP Child Support Services Application, when needed to establish IV-D eligibility,

7. For FIP clients, remitting to the Agency assigned court ordered support payments received in error after FIP case opening and payments received.

In spite of the obvious success of claimant's efforts in establishing paternity and support, the County Office personnel have no authority to disregard the non-cooperation notice issued by the support specialist on October 14, 2008. The Family Independence Manager (FIM) who represented the Department during the hearing stated he understands the support specialist position covering his county is currently vacant. No one from the Office of Child Support appeared at the hearing to represent that the present information that the non-cooperation notice issued October 14, 2008 is still valid. The Office of Child Support policy cited above combined with the entry of a Uniform Child Support Order for Claimant's son in Circuit Court as sufficient to establish the non-cooperation notice issued October 14, 2008 is no longer valid.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the Department of Human Services DID NOT properly close claimant's Family Independence Program (FIP) case and reduce her Food Assistance Program (FAP) case due to non-cooperation with the Office of Child Support.

It is ORDERED that the actions of the Department of Human Services, in this matter, are REVERSED.

/s/ _____
Gary F. Heisler
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: March 30, 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 60 days of the filing of the original request.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt 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.

GFH [REDACTED]

cc: [REDACTED]