

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: 2009-22079
Issue No: 3008; 2006
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
June 16, 2009
Muskegon 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 June 16, 2009.

ISSUE

Was the claimant's Medicaid and FAP properly cut off for failure to cooperate 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 FAP and MA beneficiary in Muskegon County.
- (2) On 4-2-09, DHS discovered a notice of noncooperation from the Office of Child Support regarding claimant's alleged failure to respond to some letters sent to claimant in 2005. This letter had been placed in claimant's file in 2005.

(3) On 4-2-09, DHS proceeded to cut off claimant's FAP and Medicaid benefits because of this letter.

(4) Claimant requested a hearing on 4-14-09 regarding the FAP and MA disqualification.

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 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).

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. PEM 255.

The Department contends that claimant was noncooperative with a child support investigation, and for that reason, his benefits were cut off.

However, beyond the initial letter indicating noncooperation, the Department has failed to provide any evidence at all that claimant did not cooperate. In fact, the Department is unable to testify exactly how claimant did not cooperate. The letter of noncooperation only states that claimant did not respond to certain letters; it did not say what those letters were, when they were sent, how claimant should have responded to them, or even if the child support issue is still valid, considering that all this happened almost 4 years ago. The Department was unable to answer these questions. Furthermore, given the length of time that has passed since the letter was issued, it is impossible to say whether the claimant could even lift the sanction if he wanted to.

Therefore, the undersigned finds that the Department has not met its burden of proof in determining that the claimant was noncooperative.

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 close claimant's case was incorrect.

Accordingly, the Department's decision is, hereby, REVERSED.

The Department is ORDERED to restore all benefits that were affected in the above mentioned issue retroactive to the negative action date, and remove the letter of noncooperation from claimant's applicant file.

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

Date Signed: July 2, 2009

Date Mailed: July 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.

RJC/cv

cc:

