

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: 2009-5576

Issue No: 1025/2006

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

February 10, 2009

Genesee County DHS

ADMINISTRATIVE LAW JUDGE: Marlene B. Magyar

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, an in-person hearing was held on February 10, 2009. Claimant personally appeared and testified.

ISSUE

Did the department properly initiate child support sanctions on claimant's public assistance benefits?

FINDINGS OF FACT

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

(1) In August 2008, claimant received a Noncooperation Notice (OCS-1252B) from her assigned Support Specialist (SS) at the department's Office of Child Support (OCS) (Department Exhibit #2, pg 1).

(2) This written notice and the department's subsequent written correspondence informed claimant her public assistance benefits (MA/FIP) were going to be closed based on her failure to adequately respond to two letters of inquiry regarding absent parent information on her minor child(ren) by the required deadlines (7/28/08 and 8/13/08)(Department Exhibit #1, pg 1 and Department Exhibit #2, pg 1).

(3) Claimant requested a hearing to dispute these proposed sanctions.

(4) Claimant's hearing was not held until February 10, 2009.

(5) At hearing, the department conclusively established claimant did, in fact, receive MA/FIP benefits in August and September 2008, but they stopped her issuances effective October 1, 2008 (Department Exhibit #2, pg 2).

(6) At hearing, claimant alleged full cooperation as of August 2008; consequently, the hearing record was extended for submission of claimant's alleged cooperation date.

(7) On February 19, 2009, this Administrative Law Judge received verification from the department which states in relevant part:

Per your request, this is to confirm that the custodial party [claimant] was originally interviewed by the Office of Child Support via telephone on September 11, 2008. This fact was confirmed via the [REDACTED] (Department Exhibit #3).

(8) This communication is consistent with a local office notice of cooperation mailed to claimant on September 23, 2008, which states in relevant part:

We previously notified you that you were not cooperating with the Office of Child Support. You are now considered to be cooperating in establishing paternity and/or securing support as of 9/15/08 (Department Exhibit #2, pg 3).

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 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 applicable 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.

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.

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.

FIP Disqualification

FIP

Any individual required to cooperate, who fails to cooperate without good cause, causes group ineligibility for a minimum of one month.

Application Denial

Deny FIP if any member required to cooperate has been determined noncooperative without good cause.

FIP Closure

Close FIP for a minimum of one calendar month when any member required to cooperate has been determined noncooperative with child support. Begin the disqualification effective with the first day of a month. (See “How Do I?” for specific instructions.)

Offer an in-person contact by home call, local office appointment or at a location mutually agreed upon by the client and worker during the negative action period. Encourage cooperation and make sure the person understands the consequences of his/her noncooperation during this contact. See PEM 200.

Determine continuing MA eligibility for all group members as part of the FIP closure process. A disqualified pregnant woman may still be eligible for MA. See “MA Member Disqualification” below. PEM 255, pp. 10-11.

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.

Claimant's position at hearing was that she did cooperate with the Support Specialist from the Office of Child Support in a timely fashion, specifically, in August 2008. That may be so. However, since the department's records conclusively establish claimant received full MA/FIP benefits in August and September 2008, that cooperation is not relevant because no negative action was proposed or taken in those months.

Furthermore, at hearing, the department conclusively verified claimant was deemed in compliance as of September 2008. Consequently, the above-referenced rules require benefit reinstatement effective October 1, 2008.

In short, all of the department's policy was followed in this case unless the department inadvertently delayed in reopening claimant's MA/FIP benefits past October 8, 2008, which was not addressed at hearing.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the department properly initiated child support sanctions on claimant's public assistance benefits (MA/FIP) and properly determined her compliance began in September 2008.

Accordingly, the department's actions are AFFIRMED and this case is returned to the local office to determine whether claimant received MA/FIP benefits in October 2008. If benefits were not resumed in October 2008, the department must issue a retroactive supplement for that month with benefit reinstatement from that month forward, unless a different negative action has been imposed on claimant's case since then. **SO ORDERED.**

/s/ _____
Marlene B. Magyar
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: March 2, 2010

Date Mailed: March 3, 2010

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 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.

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cc:

