

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Reg. No: 201016435
Issue No: 2006
[REDACTED] 2010
Saginaw County DHS

ADMINISTRATIVE LAW JUDGE: **Kandra Robbins**

HEARING DECISION

This matter is before the undersigned Administrative Law Judge by authority of MCL 400.9 and MCL 400.37. This matter was originally assigned to [REDACTED]. [REDACTED] is no longer employed by the State Office Of Administrative Hearings and Rules. This matter was reassigned to [REDACTED] to complete the decision after complete review of the record. Claimant's request for a hearing was received on December 29, 2009. After due notice, a telephone hearing was held on March 18, 2010. The Claimant and her authorized representative, [REDACTED], were present and testified.

ISSUE

1. Did the Department properly determine Claimant's eligibility for Medical Assistance (MA) and retroactive Medicaid assistance?

FINDINGS OF FACT

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

1. The Claimant submitted an application for Medicaid and Retroactive Medicaid benefits in August 2009.
2. On August 18, 2009, the Department sent notice to the Claimant explaining non-cooperation from the Office of Child Support (OCS).
3. On August 28, 2009, the Claimant contacted the Friend of the Court and was given a phone number in Lansing to contact. She called the number and was transferred twice to different workers. She left a voicemail message.

4. On September 2, 2009, the Claimant's authorized representative contacted the Department requesting assistance as the OCS office never returned the phone calls.
5. The Caseworker indicated that there was nothing she could do and denied the MA application.
6. On November 23, 2009, the Caseworker attempted to contact OCS worker regarding this matter and left a voice message.
7. On December 7, 2009, the Caseworker again attempted to contact OCS worker and left a voice message.
8. On December 10, 2009, the Caseworker still had not received any verification from OCS and continued the denial of the MA application.
9. On February 9, 2010, the Department received the Claimant's Request for Hearing protesting the Department's determination of her MA application.

CONCLUSIONS OF LAW

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901 - .951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his claim for assistance is denied. MAC R 400.903(1). An opportunity for a hearing shall be granted to an applicant who requests a hearing because of a denial. MAC R 400.903(2)

Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. BAM 600. The department will provide an administrative hearing to review the decision and determine the appropriateness. BAM 600.

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). Department Policy states:

BEM 255 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 (FOC) and the prosecuting attorney to establish paternity and/or obtain support from an absent parent.

**DEPARTMENT POLICY
FIP, CDC Income Eligible, MA and FAP**

The head of household and the parent of children 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.

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

Support Specialists work for the DHS Office of Child Support 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 FOC.

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

COOPERATION

FIP, CDC Income Eligible, MA and FAP

Cooperation is a condition of eligibility. The following individuals who receive assistance for themselves or on behalf of a child are required to cooperate in establishing paternity and obtaining support, unless good cause has been granted or is pending:

- Grantee (head of household) and spouse.
- Specified relative/individual 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. It includes **all** of the following:
 - Contacting the support specialist 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 (including but not limited to testifying at hearings or obtaining blood tests).

Support Specialist Determines Cooperation FIP, CDC Income Eligible, MA and FAP

The support specialist determines cooperation for required support actions. The date client fails to cooperate will be populated in the absent parent LUW and negative action is applied the same night automatically; see Support Disqualification.

Exception: You determine non-cooperation for failure to return assigned support payments received after the support certification effective date. See FIS Determines Cooperation later in this item. Cooperation is assumed until negative action is applied as a result of non-cooperation being entered. The non-cooperation continues until date of

cooperation is entered or cooperation is no longer an eligibility factor. The date client takes action to cooperate after failing to cooperate will be populated in the absent parent LUW and mandatory member will be added to active MA and FAP EDG the same night automatically.

REMOVING A SUPPORT DISQUALIFICATION FIP, CDC Income Eligible, MA and FAP

Ask a disqualified client at application, redetermination or reinstatement if they are willing to cooperate. A disqualified member may indicate willingness to cooperate at any time. Immediately inform clients willing to cooperate to contact the support specialist by calling 1-866-540-0008 or 1-866-661-0005. Bridges will **not** restore or reopen benefits for a disqualified member until the client cooperates (as recorded on the child support non-cooperation record) or support/paternity action is no longer needed. Bridges will end the non-cooperation record if any of the following exist:

- OCS records the comply date.
- Support/paternity action is no longer a factor in the client's eligibility (for example child leaves the group).
- For **FIP only**, the client cooperates with the requirement to return assigned support payments, or an over issuance is established and the support is certified.

MA only

Disqualified member is returned to the eligible group in the month of cooperation.

BAM105

CLIENT OR AUTHORIZED REPRESENTATIVE RESPONSIBILITIES

Responsibility to Cooperate All Programs

Clients must cooperate with the local office in determining initial and ongoing eligibility. This includes completion of the necessary forms.

**Refusal to Cooperate Penalties
All Programs**

Clients who are able but refuse to provide necessary information or take a required action are subject to penalties.

**Verifications
All Programs**

Clients must take actions within their ability to obtain verifications. DHS staff must assist when necessary. See BAM 130 and BEM 702. BAM, Item 105, p. 8.

**Assisting the Client
All Programs**

The local office must assist clients who ask for help in completing forms (including the DCH-0733-D) or gathering verifications. Particular sensitivity must be shown to clients who are illiterate, disabled or **not** fluent in English. BAM, Item 105, p. 10.

Verification is usually required at application/redetermination **and** for a reported change affecting eligibility or benefit level. BAM, Item 130, p. 1.

Obtaining Verification

All Programs

Tell the client what verification is required, how to obtain it, and the due date (see “**Timeliness Standards**” in this item). Use the DHS-3503, Verification Checklist, or for MA redeterminations, the DHS-1175, MA Determination Notice, to request verification. BAM, Item 130, p. 2-3. The client must obtain required verification, but you must assist if they need and request help. BAM, Item 130, p. 3.

**Timeliness Standards
All Programs (except TMAP)**

Allow the client 10 calendar days (**or** other time limit specified in policy) to provide the verification you request. If the client cannot provide the verification despite a reasonable effort, extend the time limit at least once. BAM, Item 130, p. 5.

Send a negative action notice when:

- . the client indicates refusal to provide a verification, or
- . the time period given has elapsed and the client has not made
- . a reasonable effort to provide it. BAM, Item 130, p. 5.

BAM 130 Obtaining Verification

All TOA

Tell the client what verification is required, how to obtain it, and the due date; see **Timeliness of Verifications** in this item. Use the DHS-3503.

The client must obtain required verification, but you must assist if they need and request help. If neither the client nor you can obtain verification despite a reasonable effort, use the best available information. If **no** evidence is available, use your best judgment.

The Claimant submitted an application for MA and Retro-MA in August 2009. During the processing of the application, the Department noted that there was a Noncooperation Notice from OCS dated December 2006. The Department notified the Claimant and her representative regarding this issue. The Department also provided information to the Claimant regarding the steps necessary to correct the non-cooperation status. In August, the Claimant attempted to contact the OCS in order to correct the non-cooperation status. She left messages for the OCS worker but never received any return phone calls. On September 2, 2009, the Claimant's authorized representative informed the Department of the steps taken by the Claimant. He also requested assistance by the worker. At the time, the worker indicated that there was nothing she could do because she did not work for the Friend of the Court. The worker notified the authorized representative that the MA would be denied as a result of the non-cooperation status. However, the worker later attempted to contact the OCS in November and December to assist the Claimant in correcting the non-cooperation status. The OCS worker did not return phone calls to the Department worker. As a result both the Department caseworker and the Claimant were unable to obtain verification that the Claimant was cooperating with the OCS. BAM 130 states that when neither the client nor the worker can obtain verification, the worker is to use their best judgment in making a determination. In this case the worker determined that the Claimant was in non-cooperation status with OCS and denied the MA application. It is unclear from the record what more the Claimant could have done in order to correct the non-cooperation status with OCS. It is clear from the record that the Claimant attempted to contact OCS as early as August. Department exhibit 6 indicates that

the Claimant sent a letter to OCS on August 12, 2009 providing the information that was required for cooperation. The Department worker attempted contact OCS as late as December to verify cooperation to no avail. The Claimant exhibited a willingness to cooperate with OCS.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law decides that Claimant made a reasonable effort to cooperate with OCS.

Accordingly, the Department's MA action is reversed. The Department shall:

1. Reprocess the Claimant's August 2009 MA application in accordance with Department policy.
2. Issue any retroactive MA benefits the Claimant is otherwise eligible to receive.

It is so ORDERED.

/s/

Kandra Robbins
On behalf of Jana Bachman
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: 2/15/11

Date Mailed: 2/15/11

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.

[REDACTED]