

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.: 201025518
Issue No.: 1005; 2006; 3008
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: August 5, 2010
Oakland County DHS

ADMINISTRATIVE LAW JUDGE: Aaron McClintic

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the Claimant's request for a hearing. After due notice, a telephone hearing was held on August 2, 2010. The Claimant appeared and testified, along with her Authorized Hearings Representative, [REDACTED], [REDACTED], FIM, and [REDACTED] appeared on behalf of the Department. [REDACTED] and [REDACTED] appeared on behalf of the Office of Child Support.

ISSUE

Is the Department correct in sanctioning Claimant for failing 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 a FIP, FAP and MA recipient.
- (2) Claimant was found to be noncooperative with the Office of Child Support on September 21, 2005.
- (3) On January 22, 2010 Claimant submitted a statement and fact sheet with regard to the paternity of her daughter [REDACTED] born in 1994.
- (4) On February 5, 2010 the Child Support Specialist, [REDACTED] interviewed the Claimant regarding the paternity of [REDACTED].

- (5) Claimant provided the name, date of birth, and high school of the purported father.
- (6) Claimant submitted a notarized "Lack of Information-Sworn Statement" at hearing.
- (7) Claimant requested a hearing on February 25, 2010 contesting the sanction of benefits.

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 Dependant 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, 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"), formally known as the Family Independence Agency, administers the FAP program pursuant to MCL 400.10, *et seq* and MAC R 400.3001-3015. Departmental 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 (formerly known as the Family Independence Agency) 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).

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. PEM 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.

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. There is no minimum information requirement. 4DM 115.

Several factors may affect a client's ability to remember or obtain information. In evaluating cooperation, the Support Specialist should consider such factors as client's marital status, duration of relationship and length of time since last contact with the non-custodial parent. A client who was married to the non-custodial parent or knew the putative father for several months can reasonably be expected to provide identifying and location information. The extent and age of location information obtainable may be affected by how long it has been since the parties last lived together or had personal contact. 4DM 115.

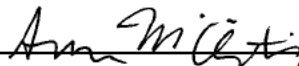
In the present case, Claimant has provided all relevant information she has about the purported father in her January 22, 2010 statement and fact sheet. Claimant provided a name, date of birth and high school for the purported father. The child whose father's identity is in question was born in 1994. The Child Support Specialist could point to no specific information that Claimant might have that she has not disclosed. The Department has not met its burden to show Claimant was noncooperative. The Department has not established that Claimant failed and/or refused to provide known or obtainable information. Claimant has not willfully and repeatedly failed or refused to provide information. It should be noted that policy states "Support specialists should find non-cooperation only as a last resort. There is no minimum information requirement." 4DM 115. Claimant submitted a notarized "Lack of Information-Sworn Statement" at hearing.

This Administrative Law Judge finds that Claimant was cooperative and therefore sanctioning Claimant for noncooperation with the Office of Child Support was not warranted and improper. Claimant was sufficiently cooperative as of January 22, 2010, the day she submitted the statement and fact sheet.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law decides that the Department was not correct in the imposition of sanction for failing to cooperate with the Office of Child Support, and it is ORDERED that the Department's decision is hereby REVERSED. The sanction shall be lifted as of January 22, 2010 the day Claimant submitted the fact sheet in this matter. FAP, FIP and MA Benefits shall be reinstated and reprocessed going back to January 22, 2010. Any missed benefits shall be paid to Claimant in the form of a supplement.

/s/



Aaron McClintic
Administrative Law Judge
For Ismael Ahmed, Director
Department of Human Services

Date Signed: August 9, 2010

Date Mailed: August 9, 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 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 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.

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