

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

IN THE MATTER OF:



Reg. No.: 201040126
Issue No.: 2006; 3008
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: July 29, 2010
Wayne 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 July 29, 2010. The Claimant appeared along with her husband [REDACTED] and both testified. [REDACTED] FIS appeared on behalf of the Department.

ISSUE

Was the Department correct in closing Claimant's Medical Assistance benefits and reducing her FAP benefits 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 an ongoing recipient of FAP and MA benefits.
- (2) A noncooperation notice was sent to Claimant on May 8, 2010 alleging that Claimant did not respond to letters sent by the Office of Child Support on March 26, 2010 and April 29, 2010.
- (3) No proof of letters sent by the Office of Child Support was presented at hearing.
- (4) No worker for the Office of Child Support testified at hearing.
- (5) Claimant did not receive letters from the Office of Child Support.

- (6) Claimant's FAP benefit was reduced from \$596 to \$449 effective June 1, 2010 because Claimant was removed for the household for failing to cooperate with the Office of Child Support.
- (7) Claimant's MA case was closed for failing to cooperate with the Office of Child Support.
- (8) Claimant requested a hearing on June 27, 2010 contesting the closure of MA benefits and reduction of FAP benefits.

CONCLUSIONS OF LAW

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"), formerly 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 Bridges Administrative Manual ("BAM"), the Bridges Eligibility Manual ("BEM"), 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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) 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. BEM 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.

201040126/AM

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 credibly testified that she did not receive the letters from the Office of Child Support. No specific factual information was requested of Claimant in the noncooperation notice. 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. This Administrative Law Judge finds that Claimant was cooperative and therefore closure of Claimant's MA benefits and reduction of FAP benefits for noncooperation was not warranted and improper.

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 closure of Claimant's MA benefits and reduction of FAP benefits, and it is ORDERED that the Department's decision is hereby REVERSED, benefits shall be reinstated as of the date of closure and a supplement shall be paid for any lost benefits.

/s/



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

Date Signed: August 3, 2010

Date Mailed: August 3, 2010

201040126/AM

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.

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