

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: 201050875

Issue No: 2006

[REDACTED]

[REDACTED]

Shiawassee County DHS

ADMINISTRATIVE LAW JUDGE: Kevin Scully

HEARING DECISION

This matter is before the undersigned Administrative Law Judge by authority of MCL 400.9 and MCL 400.37. Claimant's request for a hearing was received on July 22, 2010. After due notice, a telephone hearing was held on Wednesday, January 5, 2011. The Claimant was represented during the hearing by L&S Associates, Inc.

ISSUE

Whether the Department of Human Services (Department) properly determined the Claimant's Medical Assistance (MA) eligibility?

FINDINGS OF FACT

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

1. On November 27, 2008, the Department sent the Claimant notice to contact the Office of Child Support by January 29, 2009. This First Customer Contact Letter contained detailed information about the Office of Child Support.
2. On February 6, 2009, the Department sent the Claimant a Final Customer Contact Letter, which included notice to contact the Office of Child Support.
3. On April 17, 2009, the Department sent the Claimant notice that she was considered to be non-cooperative with the Office of Child Support.
4. On February 4, 2010, the Claimant applied for Medical Assistance (MA) including retroactive coverage.

5. On April 28, 2010, the Department denied the Claimant's application for MA because of a child support disqualification.
6. The Department received the Claimant's request for a hearing on July 22, 2010, protesting the denial of her MA application.

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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), Reference Table Manual (RFT), and the Bridges Reference Manual (BRM).

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. BEM 255.

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. BEM 255.

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. BEM 255.

The Department shall inform the individual of the right to claim good cause by giving them a DHS-2168, Claim of Good Cause - Child Support, at application, before adding a member and when a client claims good cause. The DHS-2168 explains all of the following:

- The department's mandate to seek child support.
- Cooperation requirements.
- The positive benefits of establishing paternity and obtaining support.
- Procedures for claiming and documenting good cause.
- Good cause reasons.
- Penalties for noncooperation.

- The right to a hearing. BEM 255.

The Department shall send a DHS-2168 to all customers referred for child support action:

- At application.
- When adding a member to a case, or whenever a customer wants to claim good cause.

The DHS-2168 is completed only if the customer claims good cause. If the customer claims good cause, give the support specialist a copy of the DHS-2168 within two working days after it is completed. RFF 2168.

In this case, the Claimant applied for MA benefits on February 4, 2010. The Department denied the Claimant's application on April 28, 2010, because of a child support disqualification.

The Department's Office of Child Support first contacted the Claimant on November 27, 2008. The Department instructed the Claimant to contact the Office of Child Support and notified her of the consequences of failing to cooperate. The Department contacted the Claimant again concerning compliance with the Office of Child Support on April 17, 2009, and on February 4, 2010, notified her that she was considered to be non-cooperative with the Office of Child Support.

No evidence was presented during the hearing that the Claimant had good cause for her non-cooperation with the Office of Child Support.

The Claimant's representative argued that the Department did not ask the Claimant if she was willing to cooperate with the Office of Child Support, and that if it had she would have cooperated.

On November 27, 2008, the Department provided the Claimant with a copy of DHS-Pub 748, "Michigan Child Support Services." This seven page document includes information about child support services and where to seek additional information. The Claimant was also sent a letter instructing her to contact a child support specialist by January 29, 2009. After the Claimant failed to contact the child support specialist, the Department sent additional notices on February 6, 2009, and April 17, 2009.

No evidence was presented that the correspondence concerning child support was not sent to the Claimant's correct mailing address on file. The proper mailing and addressing of a letter creates a presumption of receipt. That presumption may be rebutted by evidence. *Stacey v Sankovich*, 19 Mich App 638 (1969); *Good v Detroit Automobile Inter-Insurance Exchange*, 67 Mich App 270 (1976). In this case, the Claimant failed to rebut the presumption of receipt.

