

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: 2010-52943
Issue No: 1025
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
October 20, 2010
Genesee County DHS

ADMINISTRATIVE LAW JUDGE: Suzanne L. Morris

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, a telephone hearing was held on October 20, 2010. The claimant personally appeared and provided testimony.

ISSUE

Did the department properly sanction the claimant from the Family Independence Program (FIP) due to a child support noncooperation?

FINDINGS OF FACT

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

1. The claimant was receiving FIP benefits when the local DHS office received a Noncooperation Notice from the Office of Child Support indicating that claimant was noncompliant with the child support program effective August 4, 2010. (Department Exhibit 1)

2. The department mailed the claimant a Notice of Case Action (DHS-1605) on August 12, 2010 that informed the claimant her FIP case would close effective September 1, 2010. (Department Exhibit 3)

3. The claimant submitted a hearing request on August 31, 2010.

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 Dependent Children (ADC) program effective October 1, 1996. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (PRM).

Department 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.

GOOD CAUSE FOR NOT COOPERATING

FIP, CDC Income Eligible, MA and FAP

Exceptions to the cooperation requirement are allowed for all child support actions **except** failure to return court-ordered support payments received after the payment effective date. Grant good cause **only** if:

- . requiring cooperation/support action is against the child's best interests, **and**
- . there is a specific "good cause" reason.

If good cause exists, cooperation is excused as an eligibility requirement for the child involved. It can still be required for another child in the same family. PEM 255, pp. 1-2.

Good Cause Reasons

FIP, CDC Income Eligible, MA and FAP

There are two types of good cause:

- . Cases in which establishing paternity/securing support would harm the child. Do **not** require cooperation/support action in any of the following circumstances.
 - .. The child was conceived due to incest or forcible rape.

- .. Legal proceedings for the adoption of the child are pending before a court.
- .. The client is currently receiving counseling from a public or licensed private social agency to decide if the child should be released for adoption, **and** the counseling has **not** gone on for more than three months.
- . Cases in which there is danger of physical or emotional harm to the child or client. Physical or emotional harm may result if the client or child has been subject to or is in danger of:
 - .. Physical acts that resulted in, or threatened to result in, physical injury.
 - .. Sexual abuse.
 - .. Sexual activity involving a dependent child.
 - .. Being forced as the caretaker relative of a dependent child to engage in nonconsensual sexual acts or activities.
 - .. Threats of, or attempts at, physical or sexual abuse.
 - .. Mental abuse.
 - .. Neglect or deprivation of medical care. PEM 255, pp. 2-3.

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).

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.

Department policy indicates that clients are required to pursue any potential benefits for which they may be eligible. BEM 270. One of these benefits is child support. Department policy indicates that the head of the 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 has been granted. BEM 255.

Department policy indicates that there are situations in which child support will not be required to be pursued. Good cause can only be granted when requiring the cooperation/support action is against the child's best interest and there is a specific good cause reason. BEM 255. Good cause reasons exist if establishing paternity would harm the child or there is a danger of physical or emotional harm to the child or client. BEM 255.

Department policy indicates that cooperation with child support is a condition of eligibility for FIP. BEM 255. Failure to cooperate without good cause results in disqualification for the individual from the FIP program.

In this case, the only evidence the department has presented is the original letter of noncooperation from the Office of Child Support. The letter indicates that the claimant failed to provide any evidence to support her claim that the father(s) of the two children were unknown. No employee from the Office of Child Support appeared or provided any testimony.

The claimant testified that she has provided all known information to the Office of Child Support. The claimant testified that she thought the children's father may have been MH and that she provided that information to the department. However, a subsequent blood test revealed that he was not either child's father.

The claimant further testified that she talked with the OCS worker and informed him that she was homeless at the time DV and JV were conceived and born. The claimant candidly and credibly testified that she had been prostituting during this time and had no way to identify the father of the two children. The OCS worker had requested the claimant to provide some evidence that she was homeless during this time, i.e. some record from the [REDACTED] [REDACTED] she

had been at. However, the department worker testified that the [REDACTED] only keeps records for six years and as the youngest child is seven years of age, the records are not still available.

Thus, this Administrative Law Judge finds that the claimant did make good-faith attempts to identify and provide known information on the children's father(s). The claimant did provide a name and have a blood test completed to see if MH was the children's father. The claimant also credibly testified that she was homeless and prostituting at the time of the children's conception. Thus, the claimant is believable in her claim that she simply does not know who the children's father(s) is. The claimant obviously can not provide documents to OCS regarding her homelessness if those records are no longer kept or available. Thus, this Administrative Law Judge finds that the claimant should not have been found to be noncooperative with OCS.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department improperly sanctioned the claimant from the Family Independence Program (FIP) due to a child support noncooperation.

Accordingly, the department's determination is REVERSED. The department shall reinstate the claimant's FIP benefits back to the date of the case closure and issue any retroactive benefits that she is entitled to receive.

SO ORDERED.

/s/
Suzanne L. Morris
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: October 25, 2010

Date Mailed: October 26, 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 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.

SLM [REDACTED]

cc: [REDACTED]