

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: 2010-13676

Issue No: 2006

[REDACTED]

Hearing Date:

November 1, 2010

Kalamazoo County DHS

ADMINISTRATIVE LAW JUDGE: Suzanne L. Morris

REHEARING 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 November 1, 2010. The original hearing was held in this case on July 22, 2010. A rehearing was ordered on October 12, 2010. A rehearing is a full hearing which is granted when the original hearing record is inadequate for purposes of judicial review or there is newly discovered evidence that could affect the outcome of the original hearing decision. BAM 600. When a rehearing is granted, the State Office of Administrative Hearings and Rules will schedule and conduct the hearing in the same manner as the original hearing. BAM 600.

The claimant was not present for this hearing, but was represented by [REDACTED] from [REDACTED]. [REDACTED] appeared on behalf of the department. The record was left open until November 15, 2010 to allow the department and the claimant's representative to submit additional documentation to show when the child that was the subject of the child support sanction left the claimant's household.

ISSUE

Did the department properly deny the claimant's Medicaid and Retroactive Medicaid application due to a paternity noncooperation child support sanction?

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 department received an application for Medicaid and Retroactive Medicaid for the claimant on June 22, 2009. (Department Exhibit 14 – 38)
2. On June 24, 2009, the department mailed the claimant an Application Eligibility Notice (DHS-1150) indicating the application was denied due to a child support sanction. (Department Exhibit 12 – 13)
3. The claimant's representative submitted a hearing request on her behalf on September 24, 2009.

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) 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. BEM 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.

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. BEM 255, p. 9.

MA Member Disqualification

MA

Failure to cooperate without good cause results in a disqualification. The person who failed to cooperate is **not** eligible for MA when:

- . the child for whom support/paternity action is required receives MA, **and**
- . the person and child live together.

Exception: Do **not** begin or continue a disqualification for failure to cooperate when a pregnant woman meets all other eligibility factors. Apply this exception:

- . During the pregnancy, **and**
- . For two (2) calendar months after the month the pregnancy ends. BEM 255, p. 10.

The claimant was issued a Noncooperation Notice from the Office of Child Support (OCS) on April 2, 2009. The OCS issued a Cooperation Notice on June 29, 2009 that indicated the claimant was now considered to be in compliance with the OCS. The department maintains that they properly denied the claimant's MA and retro MA application in June, 2009 because the claimant was serving a child support sanction. The claimant's representative indicates that the child that was the subject of the OCS sanction moved from the home in February of 2009, so there was no basis for the claimant to be serving an OCS child support sanction.

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. 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. Cooperation with child support is a condition of eligibility for MA. BEM 255. Failure to cooperate without good cause results in disqualification for the individual from the MA program. BEM 255.

The record was left open until November 15, 2010 to allow the department and the claimant's representative to submit information on if the child who was the subject of the OCS noncooperation, CS, had left the group prior to the Medicaid application and if this was reported to the department. The department subsequently provided a Bridges summary of the group members associated with the claimant's case. This document shows that the department removed the child, CS, from the household on March 31, 2009.

As the claimant did not apply for Medicaid and Retro Medicaid until June 22, 2009, this was after the child, CS, had left the program group. The child was a relative of the claimant, but was not her child. While the claimant did have physical custody of the minor child for some time, the department's own documentation clearly shows that he left the claimant's home by March 31, 2009, as he was removed from the program group.

Department policy directs the department not to impose the disqualification if the "support/paternity action is no longer a factor in the child's eligibility (e.g., the child leaves the group)." BEM 255. This same policy indicates that the person who failed to cooperate is not eligible for MA when the child for whom support/paternity is required receives Medicaid and the person and the child live together. This policy makes it clear

