

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: 2010-14414
Issue No: 1025; 2006; 3008
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
March 18, 2010
Muskegon County DHS

ADMINISTRATIVE LAW JUDGE: Suzanne L. Keegstra

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 March 18, 2010. The claimant personally appeared and provided testimony.

ISSUE

Did the department properly terminate the claimant's Family Independence Program (FIP) benefits and Medical Assistance (MA) benefits and sanction the claimant from the Food Assistance Program (FAP) group for Office of Child Support (OCS) noncooperation in October, 2009?

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, FAP and MA benefits when the department received a notice from the OCS indicating the claimant was noncompliant with the paternity/child support process. (Department Exhibit 1).

2. The department closed the claimant's FIP and MA and removed the claimant from the FAP group as a result of the noncooperation. (Department Exhibit 7 – 12).

3. The claimant was mailed a Notice of Case Action (DHS-1605) on October 22, 2009, informing her that the FIP benefits were closing, she was removed from MA benefits and that she had been removed from the FAP program group. (Department Exhibit 2- 6).

4. The claimant was issued a Cooperation Notice on November 17, 2009. The local DHS office received the notice on December 9, 2009. (Department Exhibit 13).

5. The claimant submitted a hearing request on December 9, 2009.

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 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 (DHS or department) 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).

The Food Assistance Program (FAP) (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 or department) administers the FAP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3001-3015. Department policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) 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.

FIP

All rights to past, current and future child support paid for a FIP recipient must be assigned to the state as a condition of FIP eligibility. Spousal support included in a child support order must also be assigned. PEM 255, p. 1.

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).

FIP

Cooperation includes repaying to the department any court-ordered support payments received after the payment effective date.

MA

Cooperation is required for an active deductible case once the first period of MA coverage is authorized. This requirement continues as long as the case is active and includes periods for which MA coverage is **not** authorized. PEM 255, p. 8.

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 cooperation with the Office of Child Support (OCS) is a condition of eligibility to receive FIP, MA and FAP benefits. BEM 225. Cooperation is required in all phases of the process to establish paternity and obtain support, including contacting the OCS when requested. BEM 225. 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 225.

In this case, the claimant admits that she received the two letters from the OCS requesting her to contact them, the first by September 10, 2009 and the second by September 30, 2009. The claimant also admits that she did not contact the OCS as requested by the letters at that time. The claimant indicated that she could provide no reason for why she didn't contact the OCS when she received the letters.

The claimant testified that her worker never told her that her case would close in November if she didn't contact the OCS and provide necessary information for paternity establishment. However, the Noncooperation Notice clearly indicates that "failure to cooperate with the Office of Child Support will result in a reduction of your benefits or case closure unless you have a good-cause reason." Department policy requires the local office to start the support disqualification procedure upon receipt of the child support noncooperation report. BEM 225. Thus, once the department received the notice, the case worker was required to begin the process of terminating the claimant's FIP and MA benefits and removing the claimant from the FAP group. The Noncooperation Notice was received by the department on October 19, 2009 and the claimant was mailed the Notice of Case Action on October 22, 2009.

The claimant testified that she called the OCS on November 17, 2009 and provided the office with the information they requested. The OCS authored a Cooperation Notice on November 17, 2009. The department did not receive the letter until December 9, 2009. The negative action had already taken effect by that point, so the claimant needed to reapply for benefits.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department properly terminated the claimant's FIP and MA benefits and removed the claimant from the FAP program group because the claimant was noncooperative with OCS requirements.

Accordingly, the department's actions are UPHELD. SO ORDERED.

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

Date Signed: April 8, 2010

Date Mailed: April 15, 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 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.

SLK [REDACTED]

cc:

[REDACTED]