

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.: 2010-25426
Issue No.: 1025
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
June 23, 2010
Wayne County DHS (18)

ADMINISTRATIVE LAW JUDGE: Linda Steadley Schwarb

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 hearing was held on June 23, 2010. Claimant appeared and testified.

ISSUE

Did the Department of Human Services (DHS or department) properly penalize claimant's Family Independence Program (FIP), Food Assistance Program (FAP), Medical Assistance (MA), and Child Development and Care (CDC) case based upon failure to cooperate with securing 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 FIP, FAP, MA, and CDC benefits.

- 2) Claimant was unable to provide the department's Office of Child Support with the full legal name, Social Security number, current address, and last known employer of the father of claimant's minor child.
- 3) On February 6, 2010, the department's Office of Child Support notified claimant that it considered her to be non-cooperative with the Child Support Program.
- 4) On February 12, 2010, the department notified claimant that it intended to penalize her case benefits based upon her alleged failure to cooperate in securing child support.
- 5) Effective March 1, 2010, claimant lost her FIP, MA, and CDC benefits and had a reduction in her FAP benefits.
- 6) On March 6, 2010, claimant filed a hearing request to protest the department's negative action.
- 7) Claimant did not know the information requested by the department.

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).

The Child Development and Care program is established by Titles IVA, IVE and XX of the Social Security Act, the Child Care and Development Block Grant of 1990, and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The program is implemented by Title 45 of the Code of Federal Regulations, Parts 98 and 99. The Department of Human Services (DHS or department) provides services to adults and children pursuant to MCL 400.14(1) and MAC R 400.5001-5015. Department policies are contained in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

Relevant departmental policy in this matter is as follows:

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 (FOC) and the prosecuting attorney

to establish paternity and/or obtain support from an absent parent.

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...

Failure to cooperate without good cause results in disqualification. Disqualification includes member removal, as well as denial or closure of program benefits, depending on the type of assistance (TOA).

BEM Item 255, p. 1.

Support Specialists (SS) work for the OCS within DHS as the liaison between DHS and local officials by:

- Accepting referrals/applications for child support services on behalf of public assistance recipients, as well as from the general public.
- Obtaining absent parent information from clients.
- Reviewing and offering comment on good cause claims.
- Notifying you of clients' cooperation and/or non-cooperation.
- Referring appropriate cases to the local prosecutor or the FOC.

BEM Item 255, p.5.

Cooperation is a condition of eligibility. The following individuals who receive assistance for themselves or on behalf of a child are required to cooperate in establishing paternity and obtaining support, unless good cause has been granted or is pending:

- Grantee (Head of Household) and spouse.
- Specified relative/individual 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. It 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 (including but not limited to testifying at hearings or obtaining blood tests).

BEM Item 255, p. 8.

The SS determines cooperation for required support actions. They will notify you when a client fails to cooperate...

Cooperation is assumed unless and until you are notified of non-cooperation by OCS. The non-cooperation continues until you are notified of cooperation by OCS or cooperation is no longer an eligibility factor.

BEM Item 255, p. 9.

FIP Disqualification

Any individual required to cooperate, who fails to cooperate without good cause, causes group ineligibility for a minimum of one month...

CDC Disqualification

Failure to cooperate without good cause results in ineligibility for CDC...

MA Member Disqualification

Failure to cooperate without good cause results in disqualification...

BEM Item 255, p. 11.

FAP Member Disqualification

Failure to cooperate without good cause results in disqualification of the individual who failed to cooperate.

BEM Item 255, p. 12.

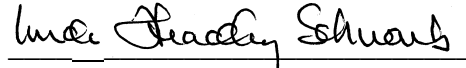
In this case, claimant testified under oath that she had provided the OCS with all requested information that was known to her. In *Black v Department of Social Services*, 195 Mich App 27 (1992), the Court of Appeals addressed the issue of burden of proof in a non-cooperation finding. Specifically, the Court in *Black* ruled that to support a finding of non-cooperation, the department has the burden of proof to establish that (1) the mother failed to provide the requested verification and that (2) the mother knew the requested information. The *Black* Court also emphasized the fact that, in the case at hand, the mother testified under oath that she had no further information and the department failed to offer any evidence that the mother knew more than she was disclosing. *Black*, p. 32-34.

In this case, the department was unable to establish that claimant failed to cooperate with the OCS. Claimant testified that she had no further information available to her. The department was unable to establish that claimant knew more information than she was willing to disclose. Accordingly, the department's action in this matter must be reversed. If claimant is otherwise eligible, the department is to reinstate claimant's program benefits and supplement all lost benefits as appropriate.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department of Human Services improperly penalized claimant's Family Independence Program, Food Assistance Program, Medical Assistance, and Child Development and Care case based upon failure to cooperate in securing child support. The department's action

in this matter is reversed. If claimant is otherwise eligible for program benefits, the department shall reinstate claimant's benefits and supplement all lost benefits as appropriate.


Linda Steadley Schwarb
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: July 1, 2010

Date Mailed: July 6, 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.

LSS/pf

cc:

