

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No: 2010-32319

Issue No: 3008

Case No:



Load No:

Hearing Date:

August 11, 2010

Midland County DHS

ADMINISTRATIVE LAW JUDGE: Landis Y. Lain

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, an in-person hearing was held on August 11, 2010. Claimant personally appeared and testified.

ISSUE

Did the Department of Human Services (the department) properly propose to cancel claimant's Family Independence Program (FIP) benefits and reduce claimant's Food Assistance Program (FAP) benefits for non-cooperation with the Office of 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 a Family Independence and Food Assistance Program benefit recipient.
- (2) Claimant has 2 minor children.
- (3) Each of claimant's children has a different father.
- (4) On June 3, 2009, a non-cooperation notice was received from the Office of Child Support to the Department of Human Services indicating that claimant was not cooperating with her efforts to find Child A's father.
- (5) On July 20, 2009, claimant returned a completed Child Support information form (DHS-842) for Child A's father.

- (6) On July 28, 2009, she provided an additional personal statement.
- (7) Both of these were forwarded to the Office of Child Support.
- (8) The Child Support Office sent an email on August 3, 2009, indicating that claimant was still considered non-cooperative.
- (9) On April 9, 2010, the Child Support non-cooperation was entered on BRIDGES and the DHS-1609 was sent out.
- (10) On April 9, 2010, the department caseworker sent claimant notice that her Family Independence Program benefits would be cancelled and her Food Assistance Program benefits would be reduced based upon its' determination that claimant was considered non-cooperative with child support.
- (11) On April 19, 2010, claimant filed a request for a hearing to contest the department's negative action.

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 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 at BEM, Item 255, indicates that 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, the Friend of the Court, and the Prosecuting Attorney to establish paternity and/or obtain support from an absent parent. 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 the claim for good cause for not cooperating has been granted or is pending. Absent parents are

required to support their children. Support includes all of the following: child support, medical support, and payment for medical care from any third party. 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. Good cause must be determined for each child. Grant good cause only when both of the following are true:

- Requiring cooperation/support action is against the child's best interest
- There is a specific good cause reason. (BEM, Item 255, p. 2)

There are two types of good cause:

1. Cases in which establish a paternity/securing support would harm the child. Did not require cooperation/support action in any of the following circumstances:
 - a. the child was conceived due to incest/or forcible rape
 - b. legal proceedings for the adoption of the child are pending before a court
 - c. the individual is currently receiving counseling from a license social agency to decide if the child should be released for adoption and the counseling has not gone on for more than 3 months.
2. 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
 - a. physical acts that resulted in or threatened to result in physical injury
 - b. sexual abuse
 - c. sexual activity involving a dependent child
 - d. being forced as a caretaker relative of a dependent child to engage in non-consensual sexual acts or activities
 - e. threats of or attempts at physical or sexual abuse
 - f. mental abuse
 - g. neglect or deprivation of medical care (BEM, Item 255, p.3)

The client must provide evidence of good cause within 20 calendar days of the claim.

In the instant case, claimant testified on the record that her oldest child, Child A, was conceived as a result of a fling with a man that she met in a bar. She gave a name and a basic description of him. Claimant testified that this happened when she was in Texas and after that she never saw him again, and a month later she found out she was pregnant.

In the instant case, claimant has not provided any form of evidence in support of her assertion. The Office of Child Support does not find claimant's assertions to be credible and still considers her to be non-cooperative. This Administrative Law Judge finds no fault with the Office of Child Support's evaluation. Department Policy has specific good cause reasons for failure to cooperate with child support. Claimant's assertion is not one of the specific reasons which establish good cause. Therefore, the department has established by the necessary competent, material and substantial evidence on the record that it was acting in compliance with department policy when it determined that claimant was non-cooperative with the Office of Child Support when she failed to provide verification information or effort or sufficient information about the paternity of her oldest child, Child A. The department's decision must be upheld.

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 properly proposed to cancel claimant's Family Independence Program (FIP) case for non-cooperation with the Office of Child Support and reduced claimant's Food Assistance Program (FAP) benefits for failure to cooperate with the Office of Child Support.

Accordingly, the department's decision is AFFIRMED.

Landis

/s/

Y. Lain

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

Date Signed: August 16, 2010

Date Mailed: August 17, 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.

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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.

LYL/alc

cc:

