

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. 201045867
Issue No. 1005; 3008
Case No. [REDACTED]
Load No. [REDACTED]
Hearing Date: August 30, 2010
Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Aaron McClintic

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the Claimant's request for a hearing. After due notice, a telephone hearing was held on August 30, 2010. The Claimant appeared and testified. [REDACTED], FIS and [REDACTED], Office of Child Support Specialist appeared on behalf of the Department.

ISSUE

Is the Department correct in sanctioning Claimant for failing to cooperate 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 an FIP, FAP and MA recipient.
- (2) On March 18, 2010 a questionnaire with an April 1, 2010 due date was sent to Claimant.
- (3) Claimant was interviewed by the Office of Child Support on July 22, 2010.
- (4) Claimant submitted a claim of good cause on July 28, 2010 alleging that her child was conceived due to forcible rape.
- (5) Claimant was found to be noncooperative with the Office of Child Support on May 21, 2010.

- (6) Claimant case was placed in negative action on July 19, 2010 and the case closed on August 1, 2010.
- (7) Claimant requested a hearing on July 26, 2010 contesting the sanction of benefits.

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 Dependant 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).

The Food Assistance Program, 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"), formerly known as the Family Independence Agency, administers the FAP program pursuant to MCL 400.10, *et seq* and MAC R 400.3001-3015. Departmental policies are found in the Bridges Administrative Manual ("PAM"), the Bridges Eligibility Manual ("BEM"), and the Program Reference Manual ("PRM").

Regulations governing the Office of Child Support (OCS) can be found in the IV-D Manual (4DM).

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, denial of program benefits, and/or case closure, depending on the program. PEM 255.

Non-cooperation exists when a client, without good cause, willfully and repeatedly fails or refuses to provide information and/or take an action resulting in delays or prevention of support action. 4DM 115.

Before finding a client non-cooperative, the Support Specialist must establish and document that the client failed and/or refused to provide known or obtainable information and/or to take an action without an acceptable reason or excuse. 4DM 115. The goal of the cooperation requirement is to obtain support. Support specialists should

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find non-cooperation only as a last resort. There is no minimum information requirement. 4DM 115.

Several factors may affect a client's ability to remember or obtain information. In evaluating cooperation, the Support Specialist should consider such factors as client's marital status, duration of relationship and length of time since last contact with the non-custodial parent. A client who was married to the non-custodial parent or knew the putative father for several months can reasonably be expected to provide identifying and location information. The extent and age of location information obtainable may be affected by how long it has been since the parties last lived together or had personal contact. 4DM 115.

In the present case, a questionnaire was sent to Claimant on March 18, 2010 regarding the paternity of [REDACTED]. On May 21, 2010 a noncooperation notice was sent to Claimant alleging that she "failed to return questionnaire and provide verifiable information on father of your child as requested."

On July 22, 2010 [REDACTED] with the Office of Child Support interviewed Claimant. At the interview, Claimant alleged that the name of the putative father was [REDACTED] of [REDACTED], [REDACTED] and provided other identifying information including a date of birth and a physical description.

Claimant testified at hearing that her child was conceived as the result of a sexual assault that took place in [REDACTED]. She testified that she provided information to law enforcement regarding the sexual assault and that a police report was generated. Claimant was given an opportunity to provide a copy of the police report within seven days of the hearing. No police report was received by this Administrative Law Judge. A claim of good cause was submitted by Claimant on July 28, 2010 with regard to the child being conceived as the result of forcible rape. The Office of Child Support agent pointed out at hearing that Claimant did not allege the child was conceived as the result of rape at the initial interview. Claimant testified that she did not feel comfortable disclosing the sexual assault at the initial interview.

The Department has not proven that Claimant failed or refused to provide information and/or take an action regarding paternity resulting in delays or prevention of support action. 4DM 115. This Administrative Law Judge finds that Claimant was sufficiently cooperative and therefore sanctioning Claimant for noncooperation with the Office of Child Support was not warranted and improper. Claimant provided sufficient identifying information and was cooperative. The Department appears to want to penalize Claimant because the putative father has a common name.

DECISION AND ORDER

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The Administrative Law Judge, based upon the above findings of fact and conclusions of law decides that the Department was not correct in the imposition of sanction for failing to cooperate with the Office of Child Support, and it is ORDERED that the Department's decision is hereby REVERSED. The sanction shall be lifted and any missed benefits shall be paid to Claimant in the form of a supplement.

/s/



Aaron McClintic
Administrative Law Judge
For Ismael Ahmed, Director
Department of Human Services

Date Signed: September 29, 2010

Date Mailed: September 29, 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.

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