

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

IN THE MATTER OF:



Reg. No.: 20111560
Issue No.: 1009; 2006; 3008
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: November 3, 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 November 3, 2010. The Claimant appeared and testified. [REDACTED], ES appeared on behalf of the Department.

ISSUE

Was the Department correct in closing Claimant's FIP benefits and sanctioning Claimant's FAP and MA benefits 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 a FIP, FAP and MA recipient.
- (2) Claimant was alleged to be noncooperative with the Office of Child Support.
- (3) Claimant contacted the Office of Child Support on several occasions leaving voicemail messages.
- (4) Claimant submitted information to the Office of Child Support on September 11, 2010 regarding the putative father of her child, including his name and address.

- (5) The Office of Child Support worker was not available to testify at hearing.
- (6) The allegations of noncooperation with the office of child support were not presented by the Department at hearing.
- (7) Notice of Case Action was sent to Claimant on September 10, 2010 informing her that her FIP case would close and her FAP and MA benefits would be sanctioned.
- (8) On September 1, 2010 Claimant's FIP benefits closed and her FAP and MA benefits were sanctioned.
- (9) Claimant requested a hearing on September 27, 2010 contesting the closure and 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 Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) 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"), formally 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 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 (formerly known as the Family Independence Agency) 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).

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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 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, Claimant credibly testified that she attempted to contact the Office of Child Support on several occasions leaving voicemail messages. Claimant further credibly testified that she submitted information regarding the putative father on September 11, 2010.

This Administrative Law Judge finds that Claimant was cooperative and therefore closure of FIP benefits sanctioning of FAP and MA benefits for noncooperation with the Office of Child Support was not warranted and improper. Claimant was sufficiently cooperative by calling the Office of Child Support and providing information about the putative father.

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. FIP benefits shall be reinstated as of the date of closure and the sanction of FAP and MA benefits shall be lifted going back to the day the sanction was implemented. Any missed benefits shall be paid to Claimant in the form of a supplement.



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

Date Signed: November 8, 2010

Date Mailed: November 8, 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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