

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:

Issue No:

[REDACTED]

Bay County DHS

2011-18061

2006

[REDACTED]

ADMINISTRATIVE LAW JUDGE: Suzanne L. Morris

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 [REDACTED]. The claimant personally appeared and provided testimony. Claimant was represented [REDACTED].

ISSUE

Did the department properly sanction the claimant from the Medical Assistance (MA) program due to a child support noncooperation?

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 submitted an application for MA on October 28, 2010. (Claimant Exhibit 9 – 10)
2. On October 29, 2010, the department denied the claimant's application for failure to cooperate with child support requirements. (Department Exhibit 1)
3. The claimant submitted a hearing request on January 21, 2011.

CONCLUSIONS OF LAW

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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) 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.

GOOD CAUSE FOR NOT COOPERATING

FIP, CDC Income Eligible, MA and FAP

Exceptions to the cooperation requirement are allowed for all child support actions **except** failure to return court-ordered support payments received after the payment effective date. Grant good cause **only** if:

- . requiring cooperation/support action is against the child's best interests, **and**
- . there is a specific "good cause" reason.

If good cause exists, cooperation is excused as an eligibility requirement for the child involved. It can still be required for another child in the same family. PEM 255, pp. 1-2.

Good Cause Reasons

FIP, CDC Income Eligible, MA and FAP

There are two types of good cause:

- . Cases in which establishing paternity/securing support would harm the child. Do **not** require cooperation/support action in any of the following circumstances.
 - .. The child was conceived due to incest or forcible rape.
 - .. Legal proceedings for the adoption of the child are pending before a court.
 - .. The client is currently receiving counseling from a public or licensed private social agency to decide if the child should be released for adoption, **and** the counseling has **not** gone on for more than three months.
- . 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:

- .. Physical acts that resulted in, or threatened to result in, physical injury.
- .. Sexual abuse.
- .. Sexual activity involving a dependent child.
- .. Being forced as the caretaker relative of a dependent child to engage in nonconsensual sexual acts or activities.
- .. Threats of, or attempts at, physical or sexual abuse.
- .. Mental abuse.
- .. Neglect or deprivation of medical care. PEM 255, pp. 2-3.

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).

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 clients are required to pursue any potential benefits for which they may be eligible. BEM 270. One of these benefits is child support. Department policy indicates that the head of the household and/or the parent of children 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 has been granted. BEM 255.

Department policy indicates that there are situations in which child support will not be required to be pursued. Good cause can only be granted when requiring the cooperation/support action is against the child's best interest and there is a specific good cause reason. BEM 255. Good cause reasons exist if establishing paternity would harm the child or there is a danger of physical or emotional harm to the child or client. BEM 255.

Department policy indicates that cooperation with child support is a condition of eligibility for MA. BEM 255. Failure to cooperate without good cause results in disqualification for the individual from the MA program.

No evidence supporting a finding of noncooperation was provided by the department and no Office of Child Support (OCS) worker appeared at the hearing to provide any testimony to establish the noncooperation. Thus, during the hearing the undersigned specifically requested any documentation that would show the claimant was noncooperative with OCS requirements. The undersigned also requested a child support payment history to show when the claimant began to receive child support for both children.

The department did fax additional information as requested by this Judge after the hearing. The information consisted of a Cooperation Notice dated February 22, 2010. This document referenced the claimant's child [REDACTED]. The local office also faxed two Noncooperation Notices, one dated November 14, 2007, that referenced child GB and one dated March 18, 2010 that referenced both children [REDACTED]. The only evidence presented that referenced a date the client became cooperative was an email from a local office worker to an OCS worker that indicated the claimant did not comply with OCS requirements until January 4, 2011.

The claimant testified that she had called the OCS in March, 2010 and again in October, 2010 and was told by the worker that she was in compliance with OCS requirements. The claimant also testified that she had been receiving child support for both children since about February, 2010. The department worker did fax this Judge a child support payment history. This documentation shows the claimant began receiving child support for both children in April, 2010. Thus, clearly the claimant had provided all necessary information to establish paternity and receive child support by April, 2010.

Thus, this Administrative Law Judge is unable to ascertain how the claimant could have been considered noncooperative with child support requirements anytime after April, 2010. The claimant's MA application was not submitted until October 28, 2010. This is well after she had established paternity and begun receiving support for both children. Therefore, this Administrative Law Judge is unable to find the claimant's application should have been denied for child support noncooperation.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department improperly sanctioned the claimant from the Medical Assistance Program (MA) due to a child support noncooperation.

Accordingly, the department's determination is REVERSED. The department shall re-process the claimant's MA application, considering the claimant to be compliant with OCS requirements, and issue the claimant/representative a new eligibility determination.

SO ORDERED.

_____/s/_____
 Suzanne L. Morris
 Administrative Law Judge
 for Maura D. Corrigan, Director
 Department of Human Services

Date Signed: 5/10/11

Date Mailed: 5/10/11

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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