

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: 201119433
Issue No: [REDACTED]
Case No: [REDACTED]
Hearing Date:
March 23, 2011
Genesee County DHS

ADMINISTRATIVE LAW JUDGE: Vicki L. Armstrong

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 received on February 4, 2011. After due notice, a telephone hearing was held on March 24, 2011. Claimant personally appeared and provided testimony.

ISSUE

Whether the department properly determined Claimant's Family Independence Program (FIP) should be closed due to 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 receiving FIP at all times pertinent to this hearing. (Hearing Summary).
2. On January 27, 2011, the department mailed Claimant a Notice of Case Action informing her that her FIP program would be closed effective March 1, 2011, and her FAP benefits would be decreased effective April 1, 2011, because she had failed to cooperate in establishing paternity or securing Child Support. (Department Exhibits 2-7).
3. Claimant timely submitted a hearing request on February 4, 2011, protesting the closure of her FIP case and decrease in FAP benefits. (Request for a Hearing).

CONCLUSIONS OF LAW

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his claim for assistance is denied. MAC R 400.903(1).

Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. BAM 600. The department will provide an administrative hearing to review the decision and determine the appropriateness. BAM 600.

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 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 FIP and FAP programs pursuant to MCL 400.10, et seq., and MAC R 400.3101-3131 and MCL 400.10, et seq., and MAC R 400.3001-3015 respectively. The FIP program replaced the Aid to Dependent Children (ADC) program effective October 1, 1996. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), Reference Table Manual (RFT), and the Bridges Reference Manual (BRM).

The department's philosophy is 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 (OCS), the Friend of the Court, and the prosecuting attorney to establish paternity and/or obtain support from an absent parent. BEM 255.

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 child support, medical support, and payment for medical care from any third party. 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. However, a pregnant woman who fails to cooperate may still be eligible for Medicaid. BEM 255.

Exceptions to the cooperation requirement for FIP, CDC income eligible, Medicaid and FAP programs are allowed for all child support actions except failure to return court-ordered support payments received after the payment effective date. Good cause is granted 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, but it can still be required for another child in the same family. BEM 255.

Cooperation is a condition of eligibility. The grantee and spouse, the specified relative/person acting as a parent and spouse, and the parent of the child for whom paternity and/or support action is required in the eligible group, are required to cooperate in establishing paternity and obtaining support, unless good cause has been granted or is pending. 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).

The department will be notified of a Client's failure to cooperate by the SS or the child support noncooperation report. Upon receipt of this notice, the department starts the support disqualification procedure. The disqualification will not be imposed if any of the following occur during the negative action period:

- . The department is notified by the Office of Child Support (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. BEM 255.

In this case, Claimant has been granted custody of her cousin's children, because her cousin is currently incarcerated. Claimant's credible testimony was uncontroverted that she had complied with the Office of Child Support (OCS).

A worker from the Office of Child Support was not present at the hearing, and the department case worker did not have personal knowledge of the case. The department was also unable to produce a Noncooperation Notice from the Office of Child Support (OCS 1252), and had only the Notice of Case Action from Bridges to rely on that Claimant's FIP benefits closed due to noncooperation with the Office of Child Support.

The Administrative Law Judge finds that the department has not met its burden of proof. The department failed to provide any evidence, other than a Bridges printout, that Claimant was noncooperative with the Office of Child Support and Claimant's testimony that she has cooperated is uncontroverted by the department.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department improperly closed Claimant's FIP benefit case and decreased Claimant's FAP benefits because the department failed to provide any evidence that Claimant had not cooperated.

Accordingly, the department's actions are REVERSED and Claimant's FIP and FAP program shall be reinstated effective March 1, 2011, and Claimant shall be issued any supplement FIP and FAP benefits she is otherwise entitled to.

It is SO ORDERED.

/s/

Vicki L. Armstrong
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: March 25, 2011

Date Mailed: March 25, 2011

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 receipt 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.

VLA [REDACTED]

cc: [REDACTED]