

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. 201120760
Issue No. 2006
Case No. [REDACTED]
Hearing Date: March 17, 2011
Wayne County DHS (15)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 March 17, 2011. The claimant appeared and testified. [REDACTED] also appeared and testified on behalf of Claimant. On behalf of Department of Human Services (DHS) [REDACTED] appeared and testified.

ISSUE

Whether DHS properly terminated Claimant's Medical Assistance (MA) benefits based on Claimant's alleged lack of cooperation in obtaining child support.

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Claimant was an ongoing MA benefit recipient.
2. On 1/5/11, DHS terminated Claimant's MA benefits, to be effective 2/2011, based on Claimant allegedly not cooperating with obtaining child support for one of her children.
3. On 1/27/11, Claimant requested a hearing disputing the termination of MA benefits.

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 (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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RTM). The BAM and BEM manuals describe how child support actions affect ongoing benefit cases. Office of Child Support (OCS) policies are found in the Combined IV-D Policy Manual (4DM) and the Child Support Manual (CSM).

The BAM and BEM manuals describe how child support actions affect ongoing benefit cases. Office of Child Support (OCS) policies are found in the Combined IV-D Policy Manual (4DM) and outline how child support cooperation decisions are derived.

Federal and state laws and regulations require that applicants and recipients of FIP and FAP benefits cooperate with OCS in obtaining child support as a condition of benefit eligibility. 4DM 115 at 1. The goal of the cooperation requirement is to obtain support. OCS and DHS policy is to find a client out of compliance with the cooperation requirement only as a last resort. Information provided by the client provides a basis for determining the appropriate support action. *Id.* Cooperation from the client will enhance and expedite the process of establishing paternity and obtaining support. *Id.*

Cooperation includes, but is not limited to, the following: identifying the non-custodial parent or alleged father, locating the non-custodial parent (including necessary identifying information and whereabouts, if known), appearing at reasonable times and places as requested to provide information or take legal action (e.g., appearing at the office of the Support Specialist, the Prosecuting Attorney, or the Friend of the Court, or as a witness or complainant at a legal proceeding) and providing all known, possessed or reasonably obtainable information upon request which relates to establishing paternity and/or securing support. *Id.* at 2. Non-cooperation exists when: a client willfully and repeatedly fails or refuses to provide information and/or take an action resulting in delays or prevention of support action. *Id.*

BEM 255 also describes the importance of child support and its cooperation requirements, "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 (FOC) and the prosecuting attorney to establish paternity and/or obtain support from an absent parent." BEM 255 at 1. DHS regulations further mandate, "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." *Id.* The support specialist determines cooperation for required support actions. *Id.* at 8.

The CSS is an integral part of establishing noncooperation. DHS regulations recognize the importance of having CSS participation within the administrative hearing process. For child support hearings, DHS regulations indicate that the CSS serves as a witness for DHS and should be prepared to:

- Cite manual items applicable to the issue(s) and read relevant manual sections into the record.
- Testify about facts in the case. This includes first hand knowledge, general practices and information obtained from third party sources (e.g., prosecutors, friends of the court).
- Introduce into evidence any document which supports the facts in the case. The type of documentation needed will depend on the specific situation. 4DM 170 at 3.

Failure to cooperate without good cause results in disqualification. BEM 255 at 10. The individual who failed to cooperate is not eligible for MA when both of the following are true: the child for whom support/paternity action is required receives MA and the individual and child live together. *Id.*

In the present case, Claimant requested a hearing to dispute the finding by DHS that she was uncooperative in obtaining child support. Claimant's benefit specialist testified that he was unaware of any lack of cooperation by Claimant and believed that Claimant's CSS was responsible for taking the adverse action to Claimant's MA benefits. The CSS did not participate in the administrative hearing. DHS literally presented zero evidence supporting that Claimant failed to cooperate in obtaining child support.

The only evidence concerning Claimant's cooperation in obtaining child support was provided by Claimant. Claimant testified that she is unable to identify the father for one of her children because she has no information to provide. Even if the undersigned could assume that Claimant's inability to identify her child's father was the basis for the non-cooperation determination, it is not conclusive evidence of non-cooperation. The undersigned need not even go that far as DHS could not even establish what the basis of non-cooperation was. It is found that DHS failed to establish non-cooperation by Claimant in obtaining child support. Accordingly, it is found that DHS improperly terminated Claimant's MA benefits effective 2/2011.

It should be noted that the decision of the undersigned only states that the previous MA benefit termination was improper because DHS failed to establish non-cooperation by Claimant. DHS is not prevented from taking future adverse actions to Claimant's MA benefits based on child support non-cooperation. If such a scenario occurs, Claimant may again request a hearing disputing the benefit termination.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly terminated Claimant's MA benefits effective 2/2011. It is ordered that DHS reinstate Claimant's MA benefits for 2/2011 and future months and remove the child support disqualification from Claimant's disqualification history. The actions taken by DHS are REVERSED.



Christian Gardocki
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: 03/25/11

Date Mailed: 03/30/11

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.

CG/dj

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