

STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

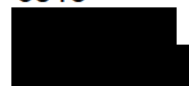
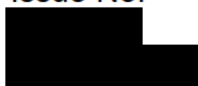


Reg. No:

2011-24732

Issue No:

6015



Iosco County DHS

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 June 1, 2011. The claimant, represented by Robert Eppert, appeared and provided testimony. The department witness requested an adjournment because an attorney was present. However, upon questioning, the department witness was familiar with the pertinent policies and facts of this case, so the request for adjournment was denied.

ISSUE

Did the department properly sanction the claimant from the Child Development and Care (CDC) 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 had been approved for and receiving CDC benefits, when the department received information that the claimant had been noncompliant with Office of Child Support (OCS) in establishing paternity. (Department Exhibit D, E)
2. On January 10, 2011, the department mailed the claimant a Notice of Case Action (DHS-1605) that closed the claimant's CDC benefits due to a child support noncooperation. (Department Exhibit D)
3. The claimant submitted a hearing request on March 16, 2011.

CONCLUSIONS OF LAW

The Child Development and Care program is established by Titles IVA, IVE and XX of the Social Security Act, the Child Care and Development Block Grant of 1990, and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The program is implemented by Title 45 of the Code of Federal Regulations, Parts 98 and 99. The Department of Human Services (DHS or department) provides services to adults and children pursuant to MCL 400.14(1) and MAC R 400.5001-5015. Department policies are contained 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 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 CDC. BEM 255. Failure to cooperate without good cause results in disqualification for the individual from the CDC program.

The department staff member testified that she attempted to have the OCS worker present for the hearing by notifying him/her of the hearing time/date on several occasions, but no OCS worker appeared to provide any testimony as to how/why they found the claimant non-cooperative. In this case, the only evidence the department has presented regarding the alleged non-cooperation is a Bridges Child Support Non-Cooperation Details page. This only shows the claimant was considered non-cooperative on November 18, 2010 and cooperative on November 22, 2010.

However, the claimant testified that she made repeated calls to the OCS worker and was told by OCS that she was cooperating. Further, the claimant's attorney provided an initial complaint and amended complaint filed on October 7, 2010 and October 18, 2010, respectively, which were to establish custody/parenting time/support. A stipulated order for custody and child support was signed and issued on March 23, 2011. The complaint/amended complaint were clearly filed prior to any alleged OCS noncompliance. Thus, the undersigned is unable to substantiate any OCS 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 Child Development and Care (CDC) program due to a child support noncooperation.

Accordingly, the department's determination is REVERSED. The department shall reinstate the claimant's CDC benefits back to December 5, 2010, the date of the case closure and issue any retroactive benefits to February 27, 2011, when the claimant was again approved for CDC benefits.

SO ORDERED.

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

Date Signed: 6/7/11

Date Mailed: 6/7/11

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.

SM/ds

■ [REDACTED]