

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

IN THE MATTER OF:



Reg. No: 201139969
Issue No: 3008, 2006, 5008
Case No: [REDACTED]
Hearing Date: August 30, 2011
Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Christopher S. Saunders

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 August 30, 2011. The claimant personally appeared and provided testimony.

ISSUE

1. Did the department properly sanction the claimant's Food Assistance Program (FAP) and Medical Assistance (MA) benefits due to a child support noncooperation?
2. Did the department properly deny the claimant's State Emergency Relief (SER) application 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 was receiving FAP and MA benefits when the claimant was sent a notice of case action (DHS 1605) on April 18, 2011 informing her that her MA case would close and her FAP benefit amount would be reduced as of May 1, 2011 due to an alleged child support noncooperation. (Department Exhibit 4).
2. The claimant applied for SER for utility services and was denied on April 20, 2011 due to an alleged noncooperation with child support. (Department Exhibit 7).
3. The claimant submitted a hearing request on June 22, 2011.

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 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 FAP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3001-3015. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM).

The Medical Assistance (MA) program was established by Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The department administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105. The goal of the Medicaid program is to ensure that essential health care services are made available to those who otherwise could not afford them. Medicaid is also known as Medical Assistance (MA).

The State Emergency Relief (SER) program is established by 2004 PA 344. The SER program is administered pursuant to MCL 400.10, *et seq.*, and by final administrative rules filed with the Secretary of State on October 28, 1993. MAC R 400.7001-400.7049. Department of Human Services (DHS or department) policies are found in the Emergency Relief Manual (ERM).

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. BEM 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. BEM 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. BEM 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. BEM 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 further states that in order to be eligible for SER services, and individual must take actions within their ability to make any potential resources available. ERM 203. Failure to pursue such resources results in the group member being ineligible for SER benefits and such ineligibility will continue as long as the group member fails to pursue such resources. ERM 203.

In the case at hand, the claimant's FAP and MA cases were sanctioned and the claimant's SER application was denied due to an alleged noncompliance with child support. At the hearing, the office of child support was not present, nor was the department able to produce any notice of noncompliance regarding child support that would have been sent to the claimant. Furthermore, the department was not able to articulate the nature of the alleged noncompliance. The department representative stated that the claimant was, as of the date of the hearing, listed as being compliant with child support. The department representative further testified that the father of the claimant's child was listed on the child's birth certificate and that the birth certificate was in the department's file.

This Administrative Law Judge, therefore, does not find by competent material and substantial evidence of the whole record, that the claimant has been non cooperative with child support, and cannot find that the claimant had continued to be in noncompliance during the period in question. The department, therefore, improperly sanctioned the claimant's FAP and MA benefits and improperly denied the claimant's SER application for failure to cooperate with child support.

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's Food Assistance Program (FAP) and Medical Assistance (MA) benefits due to a child support noncooperation. The Administrative Law Judge further finds that the department improperly denied the claimant's State Emergency Relief (SER) application based upon the claimant's noncooperation with child support.

Accordingly, the department's determination is **REVERSED**. The department shall:

1. Reinststate the claimant's FAP and MA benefits if the claimant is otherwise eligible to receive such and, if applicable, issue any past due benefits that may be due and owing to the claimant.
2. Redetermine the claimant's eligibility for SER benefits and issue said benefits to the claimant if she is otherwise eligible.

SO ORDERED.

/s/

Christopher S. Saunders
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: September 20, 2011

Date Mailed: September 20, 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 60 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.

CSS/cr

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