

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No: 20114204
Issue No: 2006
Case No: [REDACTED]
Hearing Date:
February 17, 2011
Berrien County DHS

ADMINISTRATIVE LAW JUDGE: Suzanne D. Sonneborn

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 October 26, 2010. After due notice, a telephone hearing was held on February 17, 2011. Claimant personally appeared and provided testimony.

ISSUE

Whether the department properly determined Claimant's Medical Assistance (MA) Program 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 MA at all times pertinent to this hearing. (Hearing Summary).
2. On August 10, 2010, the department received a Claim of Good Cause – Child Support form that had been submitted by Claimant to the Office of Child Support on August 2, 2010 and subsequently forwarded to the department. (Department Exhibit 1).
3. On August 16, 2010, the department mailed Claimant a Verification Checklist requesting further information regarding Claimant's allegations of danger of physical and emotional harm to herself and/or her child should child support action be pursued. This information was due to the department by August 26, 2010. (Department Exhibit 2).

4. Claimant received the Verification Checklist but failed to provide the requested information.
5. On August 26, 2010, the department mailed Claimant a Notice of Good Cause Decision indicating that good cause for her failure to pursue child support had not been established as no verification or contact had been received from Claimant to provide the requested information. (Department Exhibit 3).
6. On September 20, 2010, the Office of Child Support mailed Claimant a Non-Cooperation Notice indicating that Claimant was considered non-cooperative with the child support program due to her failure to provide information to pursue child support action. (Department Exhibit 4).
7. On October 4, 2010, the department mailed Claimant a Notice of Case Action informing her that her MA program would be closed effective November 1, 2010, because she had failed to cooperate in securing Child Support. (Department Exhibit 5).
8. Claimant submitted a hearing request on October 19, 2010, protesting the closure of her MA 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 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).

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 non-cooperative 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 disputes the department's termination of her MA benefits due to her noncompliance with child support requirements. However, Claimant admits in her testimony that she received the Verification Checklist (DHS-3503) but nonetheless failed to provide the department with any information regarding her good cause claim of danger of physical and emotional harm to herself and/or her child should child support action be pursued. Claimant also failed to indicate to the department that she was having difficulty obtaining the requested information. Finally, Claimant admits in her testimony that she does not disagree with the department's subsequent action in terminating her MA benefits for her noncompliance and in fact agrees the action was appropriate.

The Administrative Law Judge therefore finds that the department has met its burden of proof in establishing that Claimant was non-cooperative with the Office of Child Support.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department established Claimant did not comply with the requested verification and the department's decision denying Claimant's MA benefits is UPHELD.

It is SO ORDERED.

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

Date Signed: February 24, 2011

Date Mailed: February 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.

SDS/alc

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