

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.: 2011-11954
Issue No.: 3008/2026
Case No.: [REDACTED]
Hearing Date: January 26, 2011
Wayne County DHS (35)

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 January 26, 2011. The claimant appeared and testified. On behalf of Department of Human Services (DHS), [REDACTED], Manager, and [REDACTED], Specialist, appeared and testified.

ISSUES

1. Whether DHS properly found Claimant to be uncooperative with obtaining child support resulting in termination of Medical Assistance (MA) benefits and a change in Food Assistance Program (FAP) benefits.
2. Whether DHS properly failed to process submitted medical bills by Claimant toward a Medicaid deductible.

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 FAP and MA benefit recipient.
2. For benefit month 11/2010, Claimant was eligible for Medicaid subject to a \$463/month deductible.
3. For benefit month 11/2010, Claimant received \$110 in FAP benefits.
4. On an unspecified date, DHS found Claimant to be uncooperative with obtaining child support for Claimant's child, [REDACTED]

5. On an unspecified date, DHS disqualified Claimant due to the finding of non-cooperation resulting in the termination of Claimant's MA benefits effective 12/2010.
6. The child disqualification caused Claimant's FAP benefits effective 12/2010 to \$149/month.
7. On 11/22/10, Claimant requested a hearing disputing the child support disqualification and its effects on Claimant's MA and FAP benefits.

CONCLUSIONS OF LAW

The Food Assistance Program (formerly known as the Food Stamp 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 (formerly known as the Family Independence Agency) administers the FAP program pursuant to Michigan Compiled Laws 400.10, *et seq.*, and Michigan Administrative Code R 400.3001-3015. DHS regulations are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT). Updates to DHS regulations are found in the Bridges Policy Bulletin (BPB).

The BAM and BEM manuals describe how child support action 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.

In the present case, DHS failed to present any first-hand evidence from Claimant's CSS. DHS testified that based on what was inputted on their computer system, it was believed that Claimant reported the father of her child as unknown. The DHS testimony is insufficient to establish a lack of cooperation with child support. First, Claimant stated that Elon's father was known and this was reported to her CSS. Without the testimony of Claimant's CSS to refute Claimant's statement, it must be found that Claimant was cooperative in obtaining child support for Elon. Secondly, reporting an unknown father is not, by itself, sufficient to establish a lack of cooperation by Claimant. Though an unknown father may be evidence that tends to show a client is uncooperative, it is not definitive evidence. If Claimant's circumstances were such that she did not genuinely know the name of her child's father, then it could not be contended that Claimant was uncooperative. Supportive evidence of the non-cooperation should have been

submitted; in the present case, it was not. For either of the above stated reasons, it is found that DHS failed to establish a basis for a finding of non-cooperation with obtaining child support.

The disqualified person is excluded from the FAP benefit group in determining group size. BEM 212 at 6. DHS is to budget a pro rata share of earned and unearned income of a person disqualified for non-cooperation with child support requirements. BEM 550 at 2. Each source of income is prorated individually as follows:

1. The number of eligible FAP group members is added to the number of disqualified persons that live with the group.
2. Next the disqualified/ineligible person's income is divided by the number of persons in step 1.
3. Then the result in step 2 is multiplied by the number of eligible group members.

Claimant has established that her 12/2010 FAP benefits should be redetermined based on the finding that she should not have been disqualified due to failing to cooperate with child support. It must be noted that Claimant's FAP benefits may have actually increased as a result of the disqualification. Such an outcome is possible when the proration removes more than enough of the disqualified person's income to offset the loss of a FAP benefit group member. Thus, Claimant may lose FAP benefits once the child support disqualification is corrected.

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 (RFT).

MA provides medical assistance to individuals and families who meet financial and nonfinancial eligibility factors. The goal of the MA program is to ensure that essential health care services are made available to those who otherwise would not have financial resources to purchase them.

A recipient with excess income for ongoing Medicaid may still be eligible for Medicaid under the deductible program. Clients with a Medicaid deductible may receive Medicaid if sufficient allowable medical expenses are incurred. Each calendar month is a separate deductible period. The fiscal group's monthly excess income is called the deductible amount. Meeting a deductible means reporting and verifying allowable medical expenses that equal or exceed the deductible amount for the calendar month.

201111954/CG

BEM 545 at 9. The client must report medical expenses by the last day of the third month following the month in which the group wants MA coverage. *Id.*

Claimant credibly testified that she submitted medical bills on 11/22/10 intended to be applied toward her deductible. DHS contended that Claimant did not but had no case file to verify whether Claimant did or did not submit such medical bills. It is found that Claimant submitted medical bills on 11/22/10.

The undersigned was unable to locate a specific standard of promptness for the processing of medical bills. The best timeframe provided by DHS regulations states that specialists must act on a change reported by means other than a tape match within 15 workdays after they are aware of the change. BAM 220 at 5.

In the present case, DHS unquestionably exceeded the standard of promptness in applying Claimant's medical bills toward her deductible. Claimant is entitled to a remedy of ordering DHS to process the medical bills.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly found Claimant to be uncooperative with obtaining child support and accordingly, DHS improperly affected Claimant's FAP and MA benefits as a result of the disqualification. It is ordered that DHS shall redetermine Claimant's eligibility for FAP and MA benefits effective 12/2010 and that the child support disqualification be removed from Claimant's disqualification history. DHS shall supplement Claimant for any FAP benefits not received as a result of the improper disqualification though it is possible that the disqualification resulted in a FAP benefit increase for Claimant. It is also found that DHS failed to timely process Claimant's medical bills submitted 11/22/10. DHS shall process Claimant's unpaid medical bills. If DHS misplaced the previously submitted medical bills, DHS shall request the bills from Claimant in compliance with their regulations. The actions taken by DHS are REVERSED.

Christian Gardocki

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

Date Signed: 2/7/2011

Date Mailed: 2/7/2011

201111954/CG

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/jlg

cc:

