

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

IN THE MATTER OF:

[REDACTED] Issue
[REDACTED] Case
[REDACTED] Hearing
March
Oakland

Reg No: 2011-17703
No: 2006, 3008
No: [REDACTED]
Date:
9, 2011
County DHS (03)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 conducted from Detroit, Michigan on March 9, 2011. The Claimant appeared and testified. The Claimant's husband, [REDACTED] also appeared as a witness. [REDACTED] and [REDACTED] [REDACTED] appeared for the Department.

ISSUE

Whether the Department properly closed the Claimant's Medical Assistance benefits and removed the Claimant from her Food Assistance Program (FAP) group as a group member due to non-cooperation with child support?

FINDINGS OF FACT

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

1. The Claimant was advised that she was in non cooperation with child support in January 2010.

2. The Claimant spoke to the Division of Child Support on two occasions in July and August of 2010.
3. Each time the Claimant provided to the Division of Child Support the following information regarding the father of her child [REDACTED]
[REDACTED] Father's name, [REDACTED] [REDACTED]
[REDACTED] and place of
employment, [REDACTED] information.
4. The Department did not provide any document or testimony to rebut the claimant's testimony other than she was still deemed in non cooperation in the Department's computer system.
5. The Claimant was not in non cooperation as of September 2010, the month after she first reported the information.
6. The Department issued a Notice of Case Action on August 27, 2010, removing the Claimant from her FAP group and ending the Claimant's Medical Assistance as of October 1, 2010.
7. The Child Support Division individual assigned to the Claimant's did not attend the hearing.
8. The Claimant requested a hearing on September 2, 2010, protesting the closure of her medical assistance and reduction of her food assistance benefits due to non cooperation. The hearing request was received on September 20, 2010.

CONCLUSIONS OF LAW

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 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 Program Reference Manual (PRM).

In this matter the Claimant's benefits were affected when she was found to be non cooperative with the Department in attempting to determine the paternity of her child. The reason for the Department's involvement is based on policy to strengthen families:

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.

DEPARTMENT POLICY

FIP, CDC Income Eligible, MA and FAP

The head of 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 for not cooperating has been granted or is pending. BEM 255 page 1

Exceptions to cooperation occur when good cause for non cooperation can be shown or requiring cooperation is against the child's best interest.

Based on the record presented, the Claimant credibly testified that she contacted the Department Division of Child Support on two occasions, in July 2010 and August 2010. On both occasions she provided the Division with information regarding the paternity of her child. On both occasions she provided the name and address of the person who was the father of her child, his address, date of birth, employer information and identifying tattoo information. The Claimant provided the Department with all the information she had. Under these facts it must be found that the Claimant was not non cooperative with providing information regarding paternity and assisting the Department's attempts to locate the father for attempting to enforce child support obligations.

At the hearing, the Department representatives present could not confirm or deny the information provided by the Claimant regarding her contact with the Division or whether the Claimant reported the information. No witness from the Division of Child support with personal knowledge testified at the hearing.

In this case, the issue is whether the Claimant was non cooperative and whether the Department correctly determined that she was in non cooperation. Based on the testimony and evidence provided by the Department at the hearing, the Department has not met its burden of proof to demonstrate that the Claimant was in non cooperation with the Division of Child Support when it issued its August 27, 2010 Notice of Case action. Therefore its determination to close the Claimant's Medical Assistance and reduce the Claimant's FAP benefits was in error. This decision was also influenced by the fact that no individual with first hand knowledge from the Child Support Division,

offered testimony at the hearing, nor did the Department provide any documents which articulated the reason the claimant was deemed non cooperative. This being the case, it was not shown by the Department that its actions were appropriate and therefore its finding that the Claimant was in non cooperation with child support must be reversed.

Accordingly, based upon the foregoing facts and relevant law, it is found that the closure of the Claimant's Medical Assistance case was improper, and is further found that the Department's removal of the Claimant from her FAP case was also improper. Therefore, the Department's actions by Notice of Case Action dated August 27, 2010 are REVERSED.

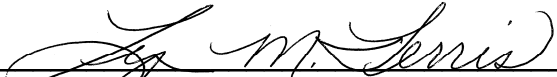
DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department improperly closed the Claimant's Medical Assistance case and incorrectly removed her as a FAP group member for non cooperation with child support and its determination by Notice of Case Action of August 27, 2010 was in error. Therefore, the Department's actions are REVERSED.

Accordingly, it is ORDERED:

1. The Department shall reopen and retroactively reinstate the Claimant's Medical Assistance case from the date of closure for non cooperation October 1, 2010.
2. The Department shall retroactively reinstate the Claimant to her FAP group as of October 1, 2010, the date of her removal from her FAP group for non cooperation, and shall recompute the Claimant's FAP benefits beginning October 1, 2010. The Department shall issue a supplement for

any FAP benefits the Claimant was otherwise entitled to receive in accordance with policy.



Lynn M. Ferris

Administrative
For
Department

Law Judge
Maura Corrigan, Director
of Human Services

Date Signed: 03/15/11

Date Mailed: 03/21/11

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.

LMF/dj

cc:

