

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2011-30579
Issue Nos.: 2006, 3008, 6015
Case No.: [REDACTED]
Hearing Date: May 23, 2011
DHS County: Wayne (82-76)

ADMINISTRATIVE LAW JUDGE: Colleen M. Mamelka

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 Monday, May 23, 2011. The Claimant appeared and testified. [REDACTED]

[REDACTED] appeared on behalf of the Department of Human Services ("Department").

ISSUE

Whether the Department properly terminated the Claimant's Medical Assistance ("MA"), Food Assistance ("FAP"), and Child Development & Care ("CDC") benefits based the failure to cooperate?

FINDINGS OF FACT

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

1. The Claimant was an MA, FAP, and CDC recipient.
2. The Department received information from the Hotline Referral that the Claimant's spouse resided in the home.
3. The Claimant denied that the spouse lived in the home.
4. On March 23, 2011, the Department sent the Claimant a Verification Checklist requesting, in part, shelter verification and a copy of her marriage license. (Exhibit 1)

5. The Department verbally requested the name of the spouse's probation officer.
6. The marriage license and shelter verification were not produced by the due date nor was the probation officer's name provided.
7. On April 13, 2011, the Department pended the Claimant's case for closure based on the failure to provide shelter verification, a copy of the marriage license, and the name of the spouse's probation officer. (Exhibit 2)
8. On April 21, 2011, the Department received the Claimant's timely written request for hearing.
9. The Claimant notified the Department that she did not have her marriage license and she did not know the name of the probation officer.
10. The Claimant's MA and FAP benefits closed on May 1, 2011. (Exhibit 3)
11. The Claimant's CDC benefits terminated effective May 8, 2011. (Exhibit 3)

CONCLUSIONS OF LAW

The Medical Assistance ("MA") program is established by Subchapter XIX of Chapter 7 of The Public Health & Welfare Act. 42 USC 1397 and is administered by the Department pursuant to MCL 400.10 *et seq.* The Department, formerly known as the Family Independence Agency, administers the program pursuant to MCL 400.10 *et seq.* and MAC R 400.3001-3015. Departmental policies are found in the Bridges Administrative Manual ("BAM"), the Bridges Eligibility Manual ("BEM"), and the Bridges Reference Manual ("BRM"). The Adult Medical Program ("AMP") is part of the MA program. BEM 500.

FAP, 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. The Department administers FAP pursuant to MCL 400.10 *et seq.* and MAC R 400.3001-3015. Department policies are found in BAM, BEM, and BRM.

The CDC 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 provides services to adults and children pursuant to MCL 400.14(1) and MAC R 400.5001-5015. Department policies are contained in BAM, BEM, and BRM.

Clients must cooperate with the local office in determining initial and ongoing eligibility to include the completion of the necessary forms. BAM 105. Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements. BAM 130. A collateral contact is a direct contact with a person, organization, or agency to verify information from the client. BAM 130. When documentation is not available, or clarification is needed, collateral contact may be necessary. BAM 130. The client must obtain the required verification; however, the Department must assist if needed and/or requested. BAM 105; BAM 130. If neither the client nor the Department is able to obtain verification despite reasonable effort, the Department should use the best available information. BAM 130. If no evidence is available, the Department should use its best judgment. BAM 130. Clients are allowed 10 calendar days (or other time limit specified in policy) to provide the requested verifications. BAM 130. For FAP and CDC benefits, a negative action notice should be sent when the client indicates a refusal to provide the verification or the time period provided has lapsed and the client has not made a reasonable effort to provide it. BAM 130. For MA purposes, a case action notice is sent when the client indicates refusal to provide a verification or the time period provided has passed. BAM 130.

In this case, the Department received notice from the Hotline Referral that the Claimant's spouse resided in the home. In response, the Department sent the verification checklist to the Claimant specifically requesting income and shelter verification and a copy of her marriage license. Verbally, the Department requested the name of the spouse's probation officer. The Claimant denied that the spouse was in the home and informed the Department that she did not know the name of the probation officer. Further, the Claimant testified that the last time her spouse discovered she went to his probation officer, the spouse became violent. Policy allows the Department to contact a person, organization, or agency to verify information. After the Claimant informed the Department she did not know the name of the probation officer, a collateral contact was available. The Department has access to the Offender Information Tracking System ("OTIS") which provides the specific office (and telephone number) where the spouse was required to report. The Department checked OTIS to determine the spouse's probation date but did not contact the probation office directly in attempt to verify the Claimant's statement that the spouse was not in the home.

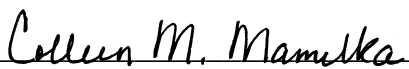
The Claimant stated that the marriage license was previously destroyed. The Claimant notified the Department that to get a copy of the license, she would have to take time off from work and, thus, would lose income; use the public transit system; and pay for a copy of the license; all of which created a burden on the Claimant. Prior to the hearing, the Claimant, who testified she was extremely frustrated at the prospect of taking time off from work, agreed to secure a copy of the license. This never happened. Ultimately, at the time of the Notice of Case Action, the Department had the Claimant's statement

that the spouse was not in the home, she did not have her marriage license, and she did not know the name of the spouse's probation officer (and did not want to get it out of fear that the spouse would become violent). Based on the best available information at that time, the spouse was not in the home and a marriage license would not establish otherwise. As mentioned in the hearing, the Department has avenues which may be pursued if it is determined that the spouse was, in fact, in the home. There was no evidence that the Claimant had refused to cooperate. Instead, the Claimant provided reasons that show good cause for not being able to provide the information. Under these facts, the Department's closure of benefits is not upheld.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, finds the Department's closure of MA, FAP, and CDC benefits is not upheld.

1. The Department's determination is not upheld.
2. The Department shall re-open the Claimant's MA, FAP, and CDC benefits from the date of closure in accordance with Department policy.
3. The Department shall supplement for lost benefits (if any) that the Claimant was entitled to receive if otherwise eligible and qualified in accordance with Department policy.



Colleen M. Mamelka
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: May 26, 2011

Date Mailed: May 31, 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.

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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.

CMM/pf

cc:

