

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

IN THE MATTER OF:

[REDACTED]

Reg. No. 201132884
Issue No. 1003 2006 3008
Case No. [REDACTED]
Hearing Date: June 8, 2011
Wayne County DHS (41)

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 June 8, 2011. The claimant appeared and testified; [REDACTED] also appeared and testified on behalf of Claimant. On behalf of Department of Human Services (DHS), [REDACTED], Manager, and [REDACTED] Specialist, appeared and testified.

ISSUE

Whether DHS established that Claimant's spouse was uncooperative with obtaining child support resulting in closure of Claimant's Family Independence Program (FIP), partial closure of Medical Assistance (MA) benefits and a reduction in Food Assistance Program (FAP) benefits.

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 FIP, MA and FAP benefit recipient.
2. Claimant's FIP, MA and FAP benefit group included Claimant's spouse.
3. On an unspecified date, DHS determined Claimant's spouse to be uncooperative with obtaining child support.
4. As a result of the alleged lack of cooperation, effective 5/2011, DHS terminated Claimant's FIP benefits, partially closed Claimant's MA benefits and reduced Claimant's FAP benefits.

5. DHS failed to establish a basis for the finding of non-cooperation against Claimant's spouse.
6. On 4/18/11, Claimant requested a hearing to dispute the adverse actions taken to the FIP, 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). DHS (formerly known as the Family Independence Agency) administers the Food Assistance Program pursuant to Michigan Compiled Laws 400.10, *et seq.*, and Michigan Administrative Code R 400.3001-3015.

The Family Independence Program was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 8 USC 601, *et seq.* DHS administers the FIP pursuant to MCL 400.10, *et seq.*, and MAC R 400.3101-3131. The FIP program replaced the Aid to Dependent Children (ADC) program effective October 1, 1996.

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). DHS administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105.

Department policies for FAP, FIP and MA benefits are found in the Bridge's Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT). Office of Child Support (OCS) policies are found in the Combined IV-D Policy Manual (4DM).

The undersigned will refer to the DHS regulations in effect as of 4/2011, the estimated month of the DHS decision which Claimant is disputing. Current DHS manuals may be found online at the following URL: <http://www.mfia.state.mi.us/olmweb/ex/html/>.

In the present case, DHS took adverse actions to Claimant's ongoing FIP, MA and FAP benefits. It was not disputed that the only basis for the adverse actions was a determination that Claimant's spouse was uncooperative with obtaining child support. The first issue to examine is whether DHS properly found that Claimant's spouse was uncooperative in obtaining child support.

Federal and state laws and regulations require that applicants and recipients of DHS 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 noncompliance with the cooperation requirement only as a last resort. *Id.* 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 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 child support specialist (CSS) 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 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. CSM 170 at 3.

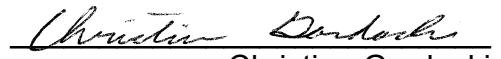
In the present case, DHS was able to identify Claimant's spouse as the person who was allegedly uncooperative in the child support process. DHS was also able to identify that there was some failure by Claimant's spouse in identifying the father of her two children; however, DHS failed to present any evidence in establishing how Claimant's spouse was uncooperative in the child support process. A CSS was not presented as a witness for the hearing and DHS provided no supporting evidence to justify a support disqualification. Claimant's spouse was asked whether she was cooperative with identifying the father of her two children and testified that she did as much as she could to identify the father. There was no evidence to rebut Claimant's spouse's testimony. Based on the presented evidence, it is found that DHS failed to establish that Claimant's spouse was uncooperative in obtaining child support. As the child support issue was the only basis for the adverse actions DHS took against Claimant's FIP, MA and FAP benefits, it is found that DHS erred in terminating FIP benefits, partially closing MA benefits and reducing FAP benefits.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS failed to establish that Claimant's spouse was uncooperative in obtaining child support. It is ordered that DHS:

- effective 5/2011, reinstate Claimant's FIP, MA and FAP benefits to the amounts/coverage Claimant would have received but not for the child support disqualification; and
- remove any child support disqualification from Claimant's spouse's disqualification history effective 5/2011.

The actions taken by DHS are REVERSED.


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

Date Signed: June 15, 2011

Date Mailed: June 15, 2011

201132884/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/ctl

cc:

[REDACTED]

Wayne County DHS (41)/1843

[REDACTED]

Christian Gardocki
Administrative Hearings