

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

IN THE MATTER OF:

[REDACTED]  
[REDACTED]  
[REDACTED]

Reg. No: 2011-3354

Issue No: 3008

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

December 2, 2010

Genesee County DHS

ADMINISTRATIVE LAW JUDGE: Kandra Robbins

**HEARING DECISION**

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37, 7 CFR 273.16, MAC R 400.3130, and MAC R 400.3178 upon the Claimant's request for hearing. After due notice, a [telephone](#) conference hearing was held on [December 2, 2010](#). The claimant was present and testified.

**ISSUE**

Did the Department properly deny the Claimant's Family Independence Program (FIP) application and sanction the Claimant for Office of Child Support (OCS) non-cooperation in May 2010?

**FINDINGS OF FACT**

This Administrative Law Judge, based upon the evidence on the whole record, finds as material fact:

1. The Claimant applied for FIP benefits on June 17, 2010.
2. The Department received OCS 1252B Noncooperation Notice dated May 14, 2010 for the Claimant (Department Exhibit 2).
3. The Claimant met with his caseworker on July 2, 2010 and was informed of the Noncooperation status. The Claimant immediately called OCS.
4. The Claimant was issued a Cooperation Notice on July 2, 2010 (Department Exhibit 1).

5. The Department denied Claimant's application on August 21, 2010.
6. The Claimant submitted a hearing request on September 27, 2010.

### **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 - .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) An opportunity for a hearing shall be granted to an applicant who requests a hearing because of a denial. MAC R 400.903(2).

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 Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 8 USC 601, et seq. The Department of Human Services (DHS or department) administers the FIP program 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.

Department policies are found in the Program Administrative Manual (BAM), the Program Eligibility Manual (BEM) and the Program Reference Manual (BRM). Department Policy states:

#### DEPARTMENT PHILOSOPHY

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.

Absent parents are required to support their children.

Support includes all of the following:

- Child support.
- Medical support.
- Payment for medical care from any third party.

Failure to cooperate without good cause results in disqualification. Disqualification includes member removal, as well as denial or closure of program benefits, depending on the type of assistance (TOA) FIP.

All rights to past, current and future court ordered child support paid for a period of time a child receives FIP must be assigned to the state as a condition of FIP eligibility. See Assignment in this item for the types of child support payments that a FIP recipient is entitled to keep.

Spousal support included in a child support order must also be Assigned

#### COOPERATION FIP, CDC

Income Eligible, MA and FAP

Cooperation is a condition of eligibility. The following individuals who receive assistance for themselves or on behalf of a child are required to cooperate in establishing paternity and obtaining support, unless good cause has been granted or is pending:

- Grantee (head of household) and spouse.
- Specified relative/individual acting as a parent and spouse.
- Parent of the child for whom paternity and/or support action is required.

Cooperation is required in all phases of the process to establish paternity and obtain support. It includes all of the following:

- Contacting the support specialist 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 (including but not limited to testifying at hearings or obtaining blood tests).

#### FIP Only

Cooperation includes repaying to the department any assigned support payments received on or after the support certification effective date.

#### SUPPORT DISQUALIFICATION FIP, CDC

#### Income Eligible, MA and FAP

Bridges applies the support disqualification when the date of non-cooperation is entered and there is no good cause entered. The disqualification is not imposed if any of the following occur on or before the timely hearing request date:

- The date individual has cooperated is entered.
- The case closes for another reason.
- The non-cooperative client leaves the group.
- Support/paternity action is no longer a factor in the child's eligibility (for example, the child leaves the group).
- Client cooperates with the requirement to return assigned support payments to DHS and the support is certified.

Note: FIP and income eligible CDC closure was certified so case action must be taken to reinstate.

## Support Disqualification At Application

FIP, CDC Income Eligible, MA and FAP

At application, client has 10 days to cooperate with the Office of Child Support. Bridges informs the client to contact the Office of Child Support in the verification check list (VCL). The disqualification is imposed if client fails to cooperate on or before the VCL due date when all of the following are true:

- There is a begin date of noncooperation in the absent parent LUW.
- There is not a subsequent comply date.
- Support/paternity action is still a factor in the child's eligibility.
- Good cause has not been granted nor is a claim pending, see [Good Cause For Not Cooperating](#) in this item.

Note: If the client is cooperating at reapplication, but has not served the minimum one-month penalty for FIP or FAP, Bridges determines eligibility for the month following the penalty month. See [FIP Disqualification](#) in this item.

Do all of the following at the application interview:

- Inform the applicant that the disqualification will be imposed unless a comply date is received from the support specialist.
- Encourage the applicant to cooperate with the support specialist and discuss with them the consequences of the noncooperation.
- Promptly refer persons who indicate a willingness to cooperate to the support specialist (1-866-540-0008 or 1-866-661-0005) to reevaluate the individual's cooperation status.

See [Removing a Support Disqualification](#) in this item.

### FIP Disqualification

Any individual required to cooperate, who fails to cooperate without good cause, causes group ineligibility for a minimum of one month.

Bridges will close FIP for a minimum of one calendar month when any member required to cooperate has been determined non-cooperative with child support. The disqualification is effective with the first day of a month. Bridges determines continued MA eligibility for all group members as part of the FIP closure process. See [MA Member Disqualification](#) in this item.

Department policy requires cooperation with the Office of Child Support (OCS) as a condition of eligibility to receive FIP, MA and FAP benefits. BEM 255. Cooperation is required in all phases of the process to establish paternity and obtain support, including contacting OCS when requested BEM 255. 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 BEM 255.

In this case, Claimant was in noncooperation status from OCS at the time of his application for FIP benefits. Both the Claimant and the Worker testified that the Claimant was informed of this fact when he met with the worker regarding his application. The worker testified that the Claimant immediately stepped out into the hallway and called OCS and resolved the issue. The worker testified that she received the Notice of Cooperation that day. Department policy states that at the time an application a Claimant has 10 days to cooperate with the Office of Child Support from the date of the Verification Checklist that informs the Claimant of his noncooperation status. This Administrative Law Judge, based upon credible, material and substantial evidence, finds that Claimant cooperated with the Office of Child Support immediately upon notice from his Caseworker.

### **DECISION AND ORDER**

This Administrative Law Judge, based upon the above findings and conclusion of law, decides that the Department incorrectly applied the disqualification period to the Claimant. Accordingly the Department's FIP eligibility determination is REVERSED. It is further ordered that the Department shall continue processing the Claimant's FIP application dated June 17, 2010.

It is so ORDERED.

/s/

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Kandra Robbins  
Administrative Law Judge  
for Ismael Ahmed, Director  
Department of Human Services

Date Signed: December 6, 2010

Date Mailed: December 7, 2010

**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 60 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.

KKR/tg

cc:

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