

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

IN THE MATTER OF:



Reg. No: 2011-33590

Issue No: 2006



Allegan County DHS

ADMINISTRATIVE LAW JUDGE: Vicki L. Armstrong

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon Claimant's request for a hearing received on February 28, 2011. After due notice, a telephone hearing was held on June 29, 2011. Claimant personally appeared and provided testimony.

ISSUE

Whether the department properly denied Claimant's Medical Assistance (MA) and Retro MA application based on her failure to cooperate with the Office of Child Support?

FINDINGS OF FACT

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

1. Claimant applied for MA and Retro-MA on November 18, 2010. (Hearing Summary).
2. On December 1, 2010, the department mailed Claimant a Notice of Case Action denying Claimant's application because Claimant was in non-cooperation status with the Office of Child Support. The Notice directed Claimant to call the Office of Child Support to resolve the matter. (Department Exhibits 20-21).
3. Claimant submitted a hearing request on February 28, 2011, protesting the denial of her MA and Retro-MA application. (Request for a Hearing).
4. The department reviewed Claimant's case and found Claimant should have been given an opportunity to validate her claim of good cause for not cooperating with the Office of Child Support. (Hearing Summary).

5. On March 11, 2011, the department mailed Claimant the Claim of Good Cause (DHS-2168). (Department Exhibits 27-28).
6. On March 15, 2011, the department mailed Claimant a Verification Checklist (DHS 3503), requesting written documentation to support her claim of good cause due April 4, 2011. (Department Exhibits 22-25).
7. On April 18, 2011, the department received the Claim of Good Cause from Claimant with her letter attached claiming that her daughter's father was an alcoholic and drug user who had told her numerous times that he wanted her dead and she should have aborted the baby. (Department Exhibits 26-29).
8. The department called Claimant on May 4, 2011 and asked Claimant if she had a copy of the police report. Claimant did not have a copy and referred the department to the Allegan County Sheriff's Office. (Department Exhibit 30).
9. The department called the Allegan County Sheriff's Office on May 4, 2011 and was informed that there was one report on file for 2010, and the report did not include Claimant's daughter's father's name. (Department Exhibit 31).
10. On May 4, 2011, the department mailed Claimant the Notice of Good Cause Decision, explaining good cause does not exist on her claim based on her written statement. (Department Exhibits 33-34).
11. On May 5, 2011, the department spoke with the Office of Child Support and was informed that Claimant had been in non-cooperation status since 2004. In 2007, letters were sent to Claimant explaining she needed to make an appointment to establish paternity. Claimant did not respond. In 2009, Claimant contacted the Office of Child Support and the process of establishing good cause was explained to Claimant and Claimant did not follow through. (Department Exhibit 32).
12. On May 5, 2011, the department mailed Claimant a Notice of Case Action informing her that she remained in non-cooperation with the Office of Child Support because she did not present evidence to support her claim of good cause. (Department Exhibits 35-36).
13. On July 1, 2011, the Administrative Law Judge received the police report from the Allegan County Sheriff's Office dated October 18, 2009. The report indicated that the father of Claimant's daughter approached her in the Dollar store and threatened to kill her when she refused to allow him to say hello to his daughter. (Department Exhibits 39-40).
14. During the hearing the representative from the Office of Child Support explained that Claimant had signed an Affidavit of Parentage in 2004, but

had refused to sign any documents allowing them to pursue the father for child support because she was afraid of her daughter's father and afraid he would harm her or her children. (Testimony, 6/29/11).

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 400.901-400.951. 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).

Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The department will provide an administrative hearing to review the decision and determine the appropriateness. BAM 600.

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 (DHS or department) 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).

The goal of the Medicaid program is to ensure that essential health care services are made available to those who otherwise could not afford them. Medicaid is also known as Medical Assistance (MA).

In order to be eligible for MA, the head of household and 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 and 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. Exceptions to the cooperation requirement are allowed for all child support actions except failure to return assigned child support payments received after the support certification effective date. BEM 255.

The department is required to inform the individual of the right to claim good cause by giving them a DHS-2168, Claim of Good Cause - Child Support, at application, before adding a member and when a client claims good cause. The DHS-2168 explains all of the following:

- The department's mandate to seek child support.
- Cooperation requirements.

- The positive benefits of establishing paternity and obtaining support.
- Procedures for claiming and documenting good cause.
- Good cause reasons.
- Penalties for noncooperation.
- The right to a hearing. BEM 255.

The department may grant good cause only when both of the following are true:

- Requiring cooperation/support action is against the child's best interests.
- There is a specific good cause reason. BEM 255.

There are two types of good cause:

1. Cases in which establishing paternity/securing support would harm the child. A cooperation/support action is not required in any of the following circumstances:
 - The child was conceived due to incest or forcible rape.
 - Legal proceedings for the adoption of the child are pending before a court.
 - The individual is currently receiving counseling from a licensed social agency to decide if the child should be released for adoption, and the counseling has not gone on for more than three months. BEM 255.
2. Cases in which there is danger of physical or emotional harm to the child or client. Physical or emotional harm may result if the client or child has been subject to or is in danger of:
 - Physical acts that resulted in, or threatened to result in, physical injury.
 - Sexual abuse.
 - Sexual activity involving a dependent child.
 - Being forced as the caretaker relative of a dependent child to engage in nonconsensual sexual acts or activities.
 - Threats of, or attempts at, physical or sexual abuse.
 - Mental abuse.

- Neglect or deprivation of medical care. BEM 255.

Policy instructs the department that if a client claims good cause, both the caseworker and the client must sign the DHS-2168. The client must complete Section 2 specifying the type of good cause and the individual(s) affected. The client is to be given a copy of the completed DHS-2168. BEM 255.

A claim of good cause may be made at any time. The department is responsible for determining if good cause exists. The application cannot be denied or the program benefits cannot be delayed just because a good cause claim is pending. A good cause claim must do all of the following:

- Specify the reason for good cause.
- Specify the individuals covered by it.
- Be supported by written evidence or documented as credible. BEM 255.

The department may request the client provide evidence of good cause within 20 calendar days of claim. The department may allow an extension of up to 25 calendar days if the client has difficulty in obtaining the evidence. The department will assist clients in obtaining written evidence if needed. Any evidence will be placed in the case record. BEM 255.

If written evidence does not exist, the department documents why none is available and then determines if the claim is credible. The credibility determination will be based on available information including client statement and/or collateral contacts with individuals who have direct knowledge of the client's situation. Verification of good cause due to domestic violence is required only when questionable. BEM 255.

Initially, the department erroneously denied Claimant's application for MA and Retro-MA because she was in non-compliance with the Office of Child Support. Upon the department receiving Claimant's hearing request, the department reviewed Claimant's case and discovered their error of failing to allow Claimant to show good cause for non-compliance. The department then mailed Claimant a DHS-2168, Claim of Good Cause - Child Support. Claimant returned the form, claiming good cause for not cooperating because she believed there was a danger of physical and emotional harm to herself and her children and provided a letter explaining her basis.

The department called Claimant and asked for documentation supporting her assertions. Claimant told the department she had filed a police report the last time she had been threatened by her daughter's father, but she did not have a copy. The department called the [REDACTED] and was told that the police report they had did not list the father. At this time, the department again denied Claimant's application for MA and Retro-MA based on the information from the [REDACTED] that there was no mention of the father in the police report. Claimant testified that she had been threatened by her daughter's father in the [REDACTED] and she had filed a police report. When questioned, Claimant was not sure of the date, but

was adamant she reported the incident to the police and it happened at the dollar store. Claimant explained that she had given the police his name and identified him by his picture so she did not understand why the police would not put his name in the report.

At the time of the hearing, the department had not obtained a copy of the police report and the record was left open to allow the department time to obtain and forward a copy of the police report to the Administrative Law Judge. A copy of the [REDACTED] [REDACTED] police report dated October 18, 2009 was received on July 1, 2011. The report stated that Claimant was approached by her daughter's father in the [REDACTED] and when she refused to allow him to say "hello" to his daughter, he leaned in towards Claimant and said, "I should fucking kill you!" At that point, Claimant's friend took Claimant's daughter out of the store.

Departmental policy instructs the department to request verification of good cause due to domestic violence only when it is questionable. When Claimant submitted her application for MA, she listed the father of her child as unknown, and later in the application stated that she had filed a police report against him for threatening her life. Due to the conflicting information provided by Claimant, the department properly requested verification of good cause.

However, had the department obtained the actual police report which clearly states Claimant was threatened by the father of her child, the department may have found good cause existed for the non-cooperation. Furthermore, the police report contained the name of a witness to this threat and the department is to base the credibility determination on available information including client statement and/or collateral contacts with individuals who have direct knowledge of the client's situation.

According to departmental policy, good cause may be granted only when requiring cooperation/support action is against the child's best interests and there is a specific good cause reason. There are two types of good cause, those in which establishing paternity/securing support would harm the child and those in which there is danger of physical or emotional harm to the child or client. A claim of good cause may be made at any time by the client. BEM 255.

In this case, Claimant informed the department that she believed there was a danger of physical and emotional harm to herself and children. Claimant submitted a letter explaining the reasons for her belief and the police report from the [REDACTED] [REDACTED] supports her claim of being threatened by her daughter's father at the [REDACTED]. Following departmental policy, Claimant has shown that requiring cooperation/support action is against the child's best interests and there is a specific good cause reason covering her and her children and she has provided documentation supporting her claims.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that policy was not followed in this case and Claimant has shown good cause for her non-cooperation with the Office of Child Support. The department shall

determine Claimant's eligibility for MA and Retro-MA based on the original date of application.

Accordingly, the department's decision is REVERSED.

It is SO ORDERED.

_____/s/_____
Vicki L. Armstrong
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: 7/8/11

Date Mailed: 7/8/11

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 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.

VLA/ds

