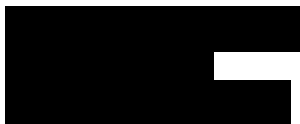


STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No.: 2011-33674
Issue No.: 1025; 2006; 3008
Case No.:
Hearing Date: June 8, 2011
Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Susan Burke

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. After due notice, a telephone hearing was held on June 8, 2011. Claimant appeared and testified. The Department of Human Services (Department) was represented by FIM. from the Office of Child Support also testified on behalf of the Department.

ISSUE

Was the Department correct in its decision to close Claimant's Family Independence Program (FIP) and Medical Assistance (MA) cases and decrease Claimant's Food Assistance Program (FAP) benefits due to refusal to cooperate in child support matters?

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 was an ongoing FIP, MA and FAP recipient.
2. On August 12, 2009, Claimant failed to keep an appointment with the prosecutor regarding child support matters.
3. On November 23, 2009, the Office of Child Support issued a Notice of Noncooperation to Claimant.
4. Claimant did not receive the Notice of Noncooperation or the appointment notice.

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5. Claimant was in cooperation with the Office of Child Support with one of her children.
6. On February 16, 2011, the Department closed Claimant's FIP and MA cases and decreased Claimant's FAP benefits effective March 1, 2011 due to refusal to cooperate in child support matters.
7. Claimant requested a hearing, protesting the negative action.

CONCLUSIONS OF LAW

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 administers the FIP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3101-3131. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (PRM).

The Medical Assistance (MA) program is established by the 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).

The Food Assistance Program (FAP) 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 administers the FAP program pursuant to MCL 400.10, *et seq.* and MAC R 400.3001-3015. Departmental policies are found in BAM, BEM and PRM.

Regulations governing the Office of Child Support (OCS) can be found in the IV-D Manual (4DM).

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. 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.

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Non-cooperation exists when a client, without good cause, willfully and repeatedly fails or refuses to provide information and/or take an action resulting in delays or prevention of support action. 4DM 115.

Before finding a client non-cooperative, the Support Specialist must establish and document that the client failed and/or refused to provide known or obtainable information and/or to take an action without an acceptable reason or excuse. 4DM 115. The goal of the cooperation requirement is to obtain support. Support specialists should find non-cooperation only as a last resort. There is no minimum information requirement. 4DM 115.

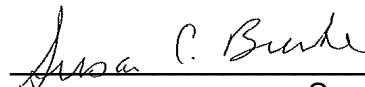
Several factors may affect a client's ability to remember or obtain information. In evaluating cooperation, the Support Specialist should consider such factors as client's marital status, duration of relationship and length of time since last contact with the non-custodial parent. A client who was married to the non-custodial parent or knew the putative father for several months can reasonably be expected to provide identifying and location information. The extent and age of location information obtainable may be affected by how long it has been since the parties last lived together or had personal contact. 4DM 115.

In the present case, the Office of Child Support issued a Notice of Noncooperation on November 23, 2009 due to a missed appointment with the prosecutor on August 12, 2009. Claimant testified credibly at the hearing that she was unaware of an appointment with the prosecutor and she did not receive the Notice of Noncooperation, as she was moving from one residence to another at the time of the notices. The witness from the Office of Child Support and Claimant agreed that Claimant was in cooperation regarding child support for one of her children, and Claimant stated that she thought she was in cooperation with regard to the child in question.

I am not persuaded that Claimant refused to cooperate in child support matters. First, Claimant was not aware of the appointment with the prosecutor and she did not receive the Notice of Noncooperation. Second, Claimant was in cooperation with one of her children and she thought she was in cooperation with the child in question. Third, it was not until March of 2011 that the Department notified Claimant that there was a problem with child support cooperation from a missed appointment of August, 2009. Without detailed proof of noncooperation, this Administrative Law Judge cannot find that Claimant refused to cooperate with respect to child support. Based on the above discussion, the Department's decision to close Claimant's FIP and CDC cases and reduce Claimant's FAP benefits due to refusal to cooperate in child support matters was not correct.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department was not correct in its decision to close Claimant's FIP and MA cases and to decrease Claimant's FAP benefits, and it is ORDERED, therefore, that its decision is REVERSED. It is further ORDERED that Claimant's FIP, MA and FAP cases shall be reinstated and benefits restored effective March 1, 2011, if Claimant is otherwise eligible, and all missed or increased benefits shall be made in the form of supplemental payments.



Susan Burke
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: 6/17/11

Date Mailed: 6/17/11

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 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 of the rehearing decision.

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