

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

IN THE MATTER OF:

Reg. No: 2011-36406
Issue No: 1005, 2006,
3008

[REDACTED]

[REDACTED]

Kalamazoo County DHS

ADMINISTRATIVE LAW JUDGE: C. Adam Purnell

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the DHS client's (also referred to as "the claimant") request for a hearing received on May 26, 2011. After due notice, a telephone hearing was held on July 26, 2011. The claimant personally appeared and provided testimony.

ISSUE

Did the department properly close the claimant's Food Assistance Program (FAP), Family Independence Program (FIP), and Medical Assistance (MA) benefits?

FINDINGS OF FACT

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

1. On January 5, 2009, the department received the claimant's application for FAP and MA benefits. On the application, the claimant indicated that she lives at home with 4 (four) children and receives income from SSI. (Department Exhibits 23-38).
2. The department processed the claimant's application and then the department approved the claimant's MA benefits and [REDACTED] monthly FAP allotment. (Department Exhibits 71-76).
3. On May 4, 2009, the department received the claimant's application for FIP benefits. On this application, the claimant indicated that there were no changes in income since her previous application. (Department Exhibits 39-54).

4. Beginning in June 2009, the claimant began collecting child support for her children in the amount of [REDACTED] per month but she did not report the income to the department. (Department Exhibits 12-22).
5. In July 2011, the department discovered that claimant had received monthly child support income in the amount of [REDACTED] from June 2009 through July 2010. The claimant was sanctioned due to noncompliance with child support. (Department Exhibits 21-22).
6. On May 20, 2011, the department mailed the claimant a Notice of Case Action (DHS-1605), informing her that FIP would be closed effective June 1, 2011 due to excess income and that her MA-Low Income Families (LIF) would be closed due to failure to cooperate with child support. Her FIP for "D.G." was denied because he receives supplemental security benefits and is not included in the group. Her FAP was reduced to [REDACTED] but the claimant was found ineligible due to child support noncooperation. (Notice of Case Action)
7. On May 10, 2011, the claimant submitted a hearing request challenging the department's determination regarding FAP, FIP and MA. (Request for a Hearing)

CONCLUSIONS OF LAW

The client has the right to request a hearing for any action, failure to act or undue delay by the department. BAM 105. The department provides an administrative hearing to review the decision and determine its appropriateness. BAM 600.

The regulations that govern the hearing and appeal process for applicants and recipients of public assistance in Michigan are contained in the Michigan Administrative Code (Mich Admin Code) Rules 400.901 through 400.951. An opportunity for a hearing shall be granted to a recipient who is aggrieved by an agency action resulting in suspension, reduction, discontinuance, or termination of assistance. Mich Admin Code 400.903(1).

The Food Assistance Program (FAP) (formerly known as the Food Stamp (FS) 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). The Department of Human Services (DHS or department) administers the FAP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3001-3015. The department's policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM).

The MA program is also referred to as Medicaid. BEM 105. 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. BEM 105. The Medicaid program is comprised of several sub-programs or categories. One category is FIP recipients. BEM 105. Another category is SSI recipients. BEM 105. There are several other categories for persons

not receiving FIP or SSI. BEM 105. However, the eligibility factors for these categories are based on (related to) the eligibility factors in either the FIP or SSI program. BEM 105. Therefore, these categories are referred to as either FIP-related or SSI-related. BEM 105.

To receive Medicaid under an SSI-related category, the person must be aged (65 or older), blind, disabled, entitled to Medicare or formerly blind or disabled. Families with dependent children, caretaker relatives of dependent children, persons under age 21 and pregnant, or recently pregnant women, receive Medicaid under FIP-related categories. BEM 105. For MA only, a client and the client's community spouse have the right to request a hearing on an initial asset assessment only if an application has actually been filed for the client. BEM 105.

The department takes the position that families are strengthened when children's needs are met. BEM 255. Departmental policy provides that 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. BEM 255.

Policy states that the custodial parent or alternative caretaker 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. BEM 255. Absent parents are required to support their children. BEM 255. Support includes **all** of the following: (1) child support, (2) medical support and (3) payment for medical care from any third party. BEM 255.

Failure to cooperate without good cause results in disqualification. BEM 255. Disqualification includes member removal, as well as denial or closure of program benefits, depending on the type of assistance (TOA). BEM 255. 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 policies require department workers to inform the individual of the right to claim good cause by providing them a Claim of Good Cause - Child Support Form (DHS-2168), at application, before adding a member and when a client claims good cause. BEM 255. 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.

Good cause will be granted only when requiring cooperation/support action is against the child's best interests and there is a specific good cause reason. BEM 255. Policy sets forth two types of good cause (1) cases in which establishing paternity/securing

support would harm the child and (2) cases in which there is danger of physical or emotional harm to the child or client. BEM 255.

For cases in which establishing paternity/securing support would harm the child, cooperation/support action is not requires 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.

For cases where there is danger of physical or emotional harm to the child or client, BEM 255 indicates that 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.

Where a client claims good cause, both the department worker and the client must sign the DHS-2168. BEM 255. The client must complete Section 2 of DHS-2168 specifying the type of good cause and the individual(s) affected. BEM 255. The client should be provided a copy of the completed DHS-2168. BEM 255.

The department worker is responsible for determining if good cause exists. BEM 255. An application may not be denied nor may program benefits be delayed just because a good cause claim is pending. BEM 255.

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.

Generally speaking, the department will request the client provide evidence of good cause within 20 calendar days of the claim. BEM 255. The department should allow an extension of up to 25 calendar days if the client has difficulty in obtaining the evidence. BEM 255. Department workers should assist clients in obtaining written evidence if needed and place any evidence in the case record. BEM 255. If written evidence does not exist, the department employee must document why none is available and determine if the claim is credible. BEM 255. Credibility determinations are based on available information including client statement and/or collateral contacts with individuals who have direct knowledge of the client's situation. BEM 255. Verification of good cause due to domestic violence is required only when questionable. BEM 255.

For purposes of FIP, cooperation is a condition of eligibility. BEM 255. 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 which 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). BEM 255.

The department, through its Bridges computer system, applies the support disqualification when a begin date of noncooperation is entered and there is no pending or approved good cause. BEM 255. The disqualification is not imposed if any of the following occur on or before the timely hearing request date; see BAM 600:

- OCS records the comply date.
- 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.
- Client requests administrative hearing. BEM 255.

At application, client has 10 days to cooperate with the Office of Child Support. BEM 255. Bridges informs the client to contact the Office of Child Support in the verification check list (VCL). BEM 255. 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 non-cooperation in the absent parent logical unit of work.
- 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; BEM 255.

Failure to cooperate without good cause results in disqualification of the individual who failed to cooperate. BEM 255. The individual and their needs are removed from the FAP EDG for a minimum of one month. The remaining eligible group members will receive benefits. BEM 255.

The department's computer system (Bridges) will not restore or reopen benefits for a disqualified member until the client cooperates (as recorded on the child support non-cooperation record) or support/paternity action is no longer needed. BEM 255. Bridges will end the non-cooperation record if any of the following exist:

- OCS records the comply date.
- Support/paternity action is no longer a factor in the client's eligibility (for example child leaves the group).
- For FIP only, the client cooperates with the requirement to return assigned support payments, or an over issuance is established and the support is certified.
- For FIP and FAP only, a one month disqualification is served when conditions (mentioned above) to end the disqualification are not met prior to the negative action effective date. BEM 255.

Cooperation with child support includes repaying to the department any assigned support payments received on or after the support certification effective date. BEM 255.

Here, Claimant was on FIP and she does not dispute that she had failed to comply with the Office of Child Support. The department properly closed Claimant's FIP due to noncooperation with child support until she repays the department her assigned support payments. BEM 255. Similarly, the department properly closed Claimant's MA-Low Income Families (LIF) benefits due to failure to cooperate with child support. Claimant's FIP for "D.G." was properly denied because the group member receives supplemental security benefits and is not properly included in the group. Claimant's FAP was properly reduced to [REDACTED] because the group size changed from 4 to 3 where one of the group members ("A.J.G.") no longer lives with Claimant.

Accordingly, based on substantial, competent and material evidence, this Administrative Law Judge finds that the department's decision regarding Claimant's FAP, FIP and MA eligibility was correct and was in compliance with the applicable policies.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department properly determined Claimant's FAP, FIP and MA benefits.

Accordingly, the department's actions are AFFIRMED.

It is SO ORDERED.

/s/

C. Adam Purnell
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: 8/23/11

Date Mailed: 8/23/11

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 date of the rehearing decision.

CAP/ds

