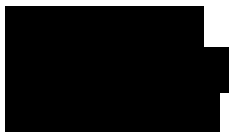


STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No: 2011-43358

Issue No: 3016



Genesee 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 July 8, 2011. After due notice, a telephone hearing was held on August 10, 2011. Claimant personally appeared and provided testimony.

ISSUE

Whether the department properly terminated Claimant's Medicaid Program (MA) and properly removed her from the Food Assistance Program (FAP) group?

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 receiving FAP at all times pertinent to this hearing. (Hearing Summary).
2. On June 23, 2011, the department was notified by Bridges, that Claimant was in noncompliance with the Office of Child Support. (Department Exhibit 1).
3. On June 24, 2011, the department mailed Claimant a Notice of Case Action informing him that his FAP benefits were being decreased because he had failed to cooperate with child support requirements. (Department Exhibit 2).
4. Claimant submitted a hearing request on July 8, 2011, protesting the amount of his MA deductible and the decrease in his FAP benefits. (Request for a Hearing).

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. 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 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. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

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 department's philosophy is that 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.

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. Absent parents are required to support their children. Support includes child support, medical support, and payment for medical care from any third party. For purposes of this item, a parent who does not live with the child due solely to the parent's active duty in a uniformed service of the U.S. is considered to be living in the child's home.

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. However, a pregnant woman who fails to cooperate may still be eligible for Medicaid. BEM 255.

Exceptions to the cooperation requirement for FIP, CDC income eligible, Medicaid and FAP programs are allowed for all child support actions except failure to return court-

ordered support payments received after the payment effective date. Good cause is granted only if requiring cooperation/support action is against the child's best interests, and there is a specific "good cause" reason. If good cause exists, cooperation is excused as an eligibility requirement for the child involved, but it can still be required for another child in the same family. BEM 255.

Cooperation is a condition of eligibility. The grantee and spouse, the specified relative/person acting as a parent and spouse, and the parent of the child for whom paternity and/or support action is required in the eligible group, are required to cooperate in establishing paternity and obtaining support, unless good cause has been granted or is pending. Cooperation is required in all phases of the process to establish paternity and obtain support and includes all of the following:

- . Contacting the Support Specialist (SS) 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 (e.g., testifying at hearings or obtaining blood tests).

The department will be notified of a Client's failure to cooperate by the Support Specialist or the child support noncooperation report. Upon receipt of this notice, the department starts the support disqualification procedure. The disqualification will not be imposed if any of the following occur during the negative action period:

- . The department is notified by the Office of Child Support (OCS) that the client has cooperated.
- . The case closes for another reason.
- . The noncooperative person leaves the group.
- . Support/paternity action is no longer a factor in the child's eligibility (e.g., the child leaves the group).
- . For disqualifications based on failure to return court-ordered support, the client cooperates with the requirement of returning court-ordered support payments or the support order is certified. BEM 255.

Upon certification of eligibility results, Bridges automatically notifies the client in writing of positive and negative actions by generating the appropriate notice of case action. The notice of case action is printed and mailed centrally from the consolidated print center. BAM 220.

A notice of case action must specify the following:

- The action(s) being taken by the department.
- The reason(s) for the action.
- The specific manual item which cites the legal base for an action or the regulation or law itself.
- An explanation of the right to request a hearing.
- The conditions under which benefits are continued if a hearing is requested.

Timely notice is given for a negative action unless policy specifies adequate notice or no notice. A negative action is a DHS action to deny an application or to reduce, suspend or terminate a benefit. A timely notice is mailed at least 11 days before the intended negative action takes effect. The action is pending to provide the client a chance to react to the proposed action. BAM 220.

In this case, the department mailed Claimant a Notice of Case Action on June 24, 2011. The Notice informed Claimant his FAP benefits would be decreased effective August 1, 2011, to [REDACTED] a month, because he was not in compliance with the Office of Child Support.

During the hearing, the department indicated that Claimant was in compliance with the Office of Child Support, effective July 7, 2011. According to departmental policy, the disqualification will not be imposed if the department is notified by the Office of Child Support (OCS) that the client has cooperated during the negative action period. BEM 255.

Claimant also stated that his MA deductible was incorrect and kept changing. The department failed to address this issue in the hearing summary and a recess was taken to allow the department time to gather the appropriate documentation to address the issue on the record. When the department returned, the correct Notice of Action was still missing and the department was unable to explain why Claimant's MA deductible changed to [REDACTED]. The MA budget was also not presented so this Administrative Law Judge is unable to determine whether the department used the proper income in determining Claimant's MA deductible.

As a result, this Administrative Law Judge finds the department improperly determined Claimant's MA deductible and improperly decreased Claimant's FAP benefits. The decrease of Claimant's FAP benefits is defined in departmental policy as a negative action which requires the department to provide Claimant with timely notice to allow Claimant the client a chance to react to the proposed action. BAM 220. Claimant properly reacted and cooperated during the negative action period and prior to the August 1, 2011 date.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department improperly decreased Claimant's FAP benefits and failed to show Claimant's MA deductible was properly determined. Accordingly, the department's actions are REVERSED and the department SHALL reinstate Claimant's FAP benefits back to the amount prior to finding Claimant in non-compliance and redetermine his MA eligibility and issue any supplement FAP benefits to which he is otherwise entitled.

It is SO ORDERED.

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

Date Signed: _____

Date Mailed: _____

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

■ [REDACTED]