

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2011-45334
Issue No.: 1003
Case No.: [REDACTED]
Hearing Date: September 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 September 8, 2011 in Detroit, Michigan. Claimant appeared and testified. The Department of Human Services (Department) was represented by [REDACTED], Assistance Payments Supervisor, [REDACTED] Specialist, and [REDACTED] from the Office of Child Support.

ISSUE

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

FINDINGS OF FACT

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

1. Claimant was a recipient of FIP, MA and FAP.
2. On or about September of 2010, the Office of Child Support contacted Claimant by phone and by written correspondence to interview Claimant regarding the father of Claimant's child.
3. Claimant returned the Office of Child Support's phone calls, responded to their correspondence, and made additional phone calls to the Office of Child Support that were not returned.

4. Claimant reported to the Office of Child Support the information she knew about the father of her child.
5. Claimant made further investigation as to the father of her child and reported it back to the Office of Child Support.
6. The Office of Child Support found Claimant to be noncooperative on October 13, 2010.
7. The Department closed Claimant's FIP, MA, and FAP cases, effective December 1, 2010.
8. Claimant requested a hearing on December 1, 2010, protesting the closure. (It is noted that the hearing request of record is dated July 29, 2011, but this was explained by the Department representative to be a replacement hearing request.)

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), which includes the Reference Tables (RFT.)

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 BAM, BEM and PRM.

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 (formerly known as the Family Independence Agency) administers the FAP program pursuant to MCL 400.10 *et seq.*, and MAC R 400.3001-3015. Department policies are found in the BAM, BEM and PRM.

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.

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Disqualification includes member removal, denial of program benefits, and/or case closure, depending on the program. BEM 255.

BEM 255, p. 7 instructs:

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).

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

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.

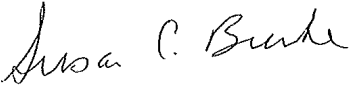
In the present case, the Office of Child Support testified that the only information that the Office received from Claimant was that her child was a product of a "one night stand." When asked what more would be asked of a person who asserts such circumstance, the representative from the Office of Child Support stated that follow-up questions such as circumstances of conception would be posed to the person.

However, no notes read by the Office of Child Support reflect that such questions were asked of Claimant; rather the notes only reflect that Claimant was explained the responsibility to provide information. Claimant testified credibly that she called the Office of Child Support when asked to, that she responded to correspondence when asked to, and submitted as much information as she knew about her child's father. In addition, upon the request of her Department worker, Claimant went back to the establishment where she met the child's father and asked if anyone knew anything more than she did, that is the father's first name and that he was from Ypsilanti Township. The Child Support Specialist who took information from Claimant prior to the negative action was not at the hearing to testify as to whether she recalls Claimant giving her that information. I find that Claimant cooperated to the best of her ability in contacting and responding to the Office of Child Support, and that she provided the information about the child of her father to the best of her ability. Without detailed proof of noncooperation, this Administrative Law Judge cannot find that Claimant failed to cooperate with respect to child support. Therefore, the Department was incorrect in closing Claimant's FIP, MA and FAP cases.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law decides that the Department was not correct in its decision to close Claimant's FIP, MA and FAP cases. Therefore, it is ORDERED that the Department's decision is REVERSED. It is further ORDERED:

- 1.) The Department shall initiate reinstatement of Claimant's FIP, MA and FAP cases, effective December 1, 2010, if Claimant otherwise is eligible for FIP, MA or FAP.
- 2.) The Department shall issue supplements for any missed or increased payments for FIP and FAP from December 1, 2010 and ongoing.



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

Date Signed: 9/15/11

Date Mailed: 9/16/11


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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 mailing 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.

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