

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

IN THE MATTER OF:

[REDACTED]

[REDACTED]

Muskegon County DHS

[REDACTED]

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 (referred to as "Claimant") request for a hearing received on August 17, 2011. After due notice, a telephone hearing was held on September 21, 2011. Claimant personally appeared and provided testimony.

**ISSUE**

Whether the department properly determined Claimant's eligibility for Food Assistance Program (FAP), Family Independence Program (FIP), and Child Development & Care (CDC) benefits after Claimant was found in noncooperation 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 was an active FIP, FAP and CDC recipient with a group size of 3.
2. On June 24, 2011, Claimant was found to be in noncooperation with child support. (Department Exhibit 12).
3. On July 25, 2011, the Department mailed Claimant a Notice of Case Action (DHS-1605) that closed her FIP and CDC and reduced her FAP to [REDACTED] (reduction of group size from 3 to 2) both due to noncooperation child support. (Department Exhibits 5-8).
4. Claimant complied with the Office of Child Support on August 8, 2011. (Department Exhibit 12).

5. Claimant no longer participated in the Work First/Jobs, Education and Training (WF/JET) Program as of July, 2011. (Hearing Summary).
6. On August 16, 2011, the Department mailed Claimant a Notice of Case Action (DHS-1605) that closed CDC case because the parent no longer has a need. (Department Exhibits 17-19).
7. On August 17, 2011, Claimant requested a hearing. (Request for a Hearing).

### **CONCLUSIONS OF LAW**

Clients have the right to contest a department decision affecting eligibility for benefit levels whenever it is believed that the decision is incorrect. BAM 600. 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).

Claimant requested a hearing regarding the FAP, FIP and CDC programs.

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 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 of Human Services (DHS or department) administers the FIP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3101-3131. The FIP program replaced the Aid to Dependent Children (ADC) program effective October 1, 1996. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (PRM).

The Child Development and Care (CDC) program is established by Titles IVA, IVE, and XX of the Social Security Act, the Child Care and Development Block Grant of 1990, and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The

program is implemented by Title 45 of the Code of Federal Regulations, Parts 98 and 99. The Department of Human Services (DHS or Department) provides services to adults and children pursuant to MCL 400.14(1) and MAC R 400.5001-5015. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), Reference Table Manual (RFT), and the Bridges Reference Manual (BRM). The Department may provide a subsidy for child care services for qualifying families when the parent(s)/substitute parent(s) is unavailable to provide the child care because of employment, participation in an approved activity and/or because of a condition for which treatment is being received and care is provided by an eligible provider. BEM 703.

For CDC eligibility to exist for a given child, each parent/substitute parent (P/SP) must demonstrate a valid need reason. BEM 703. This section specifies who must demonstrate those valid need reasons. BEM 703. There are four valid CDC need reasons. Each parent/substitute parent of the child needing care must have a valid need reason during the time child care is requested. BEM 703. Each need reason must be verified and exists only when each parent/substitute parent is unavailable to provide the care because of (1) family preservation; (2) high school completion; (3) an approved activity or (4) employment. BEM 703.

In two parent households, both parents' need reasons must be verified with the appropriate verification. BEM 703. Determination of eligibility must be made in the following descending order. BEM 703. CDC Payments for Family Preservation may be approved for P/SPs who are: (1) unavailable to provide care because they are participating in a court-ordered rehabilitative activity; (2) unavailable to provide care because they are required to participate in the treatment activity of another member of the CDC program group, the CDC applicant or the CDC applicant's spouse who lives in the home (3) unable to provide care due to a condition for which they are being treated by a physician; or (4) unavailable to provide care due to an educational need which is part of the foster care services plan. BEM 703.

Department policy indicates that clients are required to pursue any potential benefits for which they may be eligible. BEM 270. One of these benefits is child support. 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. 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. 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 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.

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.

The department will make a good cause determination within 45 calendar days of receiving a signed DHS-2168 claiming good cause. BEM 255. The OCS can review and offer comment on the good cause claim before the department employee makes the determination. BEM 255. The department may exceed the 45-day limit only if all of the following apply:

- The client was already granted an additional 25-day extension to the original 20-day limit.
- More information is needed that **cannot** be obtained within the 45-

day limit.

- Supervisory approval is needed.  
One of three findings is possible when making a determination:
- Approved - Continue with Child Support Action. BEM 255.

Support Specialists work for the DHS Office of Child Support as the liaison between DHS and local officials by:

- Accepting referrals/applications for child support services on behalf of public assistance recipients, as well as from the general public.
- Obtaining absent parent information from clients.
- Reviewing and offering comment on good cause claims.
- Notifying of clients' cooperation and/or non-cooperation.
- Referring appropriate cases to the local prosecutor or the FOC. BEM 255.

The prosecutor takes legal action to obtain an order for support against the absent parent. The FOC enforces existing orders. BEM 255. The Support Specialist must enter the good cause claim within two work-days of the individual's claim. BEM 255. No support action or contact with the client will be initiated while the good cause claim is pending. 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.

DHS requires participation in employment and/or self-sufficiency related activities associated with the Family Independence Program (FIP) or Refugee Assistance Program (RAP). BEM 233B. Applicants or recipients of Food Assistance Program (FAP) only must accept and maintain employment. BEM 233B. There are consequences for a client who refuses to participate in FIP/RAP employment and/or self-sufficiency-related activities or refuses to accept or maintain employment without good cause. BEM 233B.

Policy provides that a noncompliant person must serve a minimum one-month or six-month disqualification period unless one of the criteria for ending a disqualification early exists. The noncompliant person:

- Complies with work assignments for a cash program, **or**
- Obtains comparable employment in salary **or** hours to the job which was lost, **or**
- Meets a deferral reason other than unemployment benefit (UB) application/recipient, (see DEFERRALS in BEM 230B), **or**
- Leaves the group. BEM 233B.

When the department learns and verifies that the person has met any of the criteria above after a disqualification has actually taken effect, the department will restore benefits beginning the month **after** the noncompliant person reports meeting the criteria. BEM 233B. After a one-month or six-month disqualification, the noncompliant person must complete a compliance test to become eligible for FAP, **unless**:

- Working 20 hours or more per week.
- Meets FAP deferral criteria (see DEFERRALS in BEM 230B). BEM 233B.



**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

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