

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Reg. No: 2011-6363
Issue No: 1025, 3008, 2006
Case No: [REDACTED]
Hearing Date
February 3, 2011
Calhoun County DHS (21)

ADMINISTRATIVE LAW JUDGE: Landis Y. Lain

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, an in-person hearing was held on February 3, 2011. Claimant personally appeared and testified. Claimant was represented at the hearing by [REDACTED]

ISSUE

Did the department of Human Services (the department) properly propose to cancel claimant's Family Independence Program (FIP), Food Assistance Program (FAP), and Medical Assistance (MA) based upon its' determination that claimant failed to comply with 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 a FIP, FAP, and MA benefit recipient.
- (2) The department of Office of Child Support sent claimant a customer contact letter requesting information about the father of claimant's child.
- (3) On September 10, 2010, a message was received from the client asking for a good cause waiver because she stated she didn't know who the father of the child was.
- (4) On September 14, 2010, a DHS 2168 form was generated in BRIDGES and sent to the client.

- (5) On September 29, 2010, a non-cooperation notice with support dated September 23, 2010, was received in the department office.
- (6) On September 30, 2010, claimant submitted a blank DHS 2168 with a handwritten statement.
- (7) Claimant's handwritten statement said, "I really have no idea who T's father is. I originally had hoped the guy was with for 7 years was the father but the nurse said he was mixed. I believe when I was really messed up and blacked out one night after I split with that guy, I must have gotten with someone but I don't remember. All I know is that I walked out to [REDACTED] to have some fun and I woke up in my own bed. I know I had taken something before I went, I remember screaming and dancing to the bands and then I woke up at home. I do not recall any black dudes there. I'm a white dude only kind of chick. I know I found I was pregnant a month later and miscarried a month later and then learned I was still pregnant at the end of [REDACTED] I do not recall being with a black guy. I am sorry for all this and I am embarrassed at the fact that I put myself in such a situation. I don't even know if it was consensual or not. I was told I was raped but my area wasn't sore, no bruises, no nothing. If the Food Stamps and the cash assistance need to be cut back I understand but I really do need the help to be able to get diapers and other things that will be needed until I can get on disability or SSI or whatever. I have been having several appointments as well that require bus passes and sometimes child care. If there is anything that I need to do, just let me know. I haven't marked anything on the paper because I didn't think that anything was correct for me to mark. Thank you for your time."
- (8) On October 4, 2010, claimant called for a phone interview appointment for FAP review.
- (9) The worker discussed child support with the client and explained that she needed to complete the 2168 and sign it so that it could be sent to a Child Support Specialist.
- (10) The worker explained that simply saying that she didn't know who the father of the child is was not a valid answer.
- (11) The worker suggested that she could cooperate by providing Child Support Specialist with a name of the man she was seeing when she conceived and allow testing to rule him out as a starting point.
- (12) The worker explained that non-cooperation meant that claimant would not be able to receive cash or daycare and she would be disqualified from

receiving Food Assistance Program benefits and Medical Assistance and only the baby would continue to receive those benefits.

- (13) On October 27, 2010, a child support sanction was imposed as notice of cooperation was not received.
- (14) On November 4, 2010, claimant filed a timely hearing request.

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. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his or her claim for assistance has been denied. MAC R 400.903(1). 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 of that decision. BAM 600.

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 Program Administrative Manual (BAM), the Program Eligibility Manual (BEM) and the Program Reference Manual (PRM).

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 Program Administrative Manual (BAM), the Program Eligibility Manual (BEM) and the Program Reference Manual (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 (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 Program Administrative Manual (BAM), the Program Eligibility Manual (BEM) and the Program Reference Manual (PRM).

Department philosophy indicates that families are strengthened when children's needs are met. Parents have the responsibility to meet their children's needs by providing

support and/or cooperating with the department including the Office of Child Support, the Friend of the Court and the Prosecuting Attorney to establish paternity and/or obtain support from an absent parent. 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 their claim of good cause for not cooperating has been granted or is pending. BEM, Item 255, p. 1. Failure to cooperate without good cause results in disqualification. Disqualification includes member removal, denial of program benefits and/or case closure depending upon the program. Exceptions to the cooperation requirement are allowed for all child support actions except failure to return court ordered support payments received after the payment effective date. Grant good cause only if requiring cooperation/support action is against the child's best interest and there has been specific good cause reason. BEM, Item 255, pp. 1-2).

There are two types of good cause:

- Cases in which establishing paternity/securing support would harm the child. Do not require cooperation/support action at any of the following circumstances:
 - Where the child was conceived due to incest or forcible rape
 - Where legal proceedings for the adoption of the child are pending before a court, and
 - The client is currently receiving counseling from a public or a licensed private social agency to decide if the child should be released for adoption and the counseling has not gone on for more than 3 months.
- Cases in which there is danger of physical or emotional harm to the child or client. Physical or emotional harm may result if the client or child has been subject to or in danger of:
 - Physical acts that result in, or threatened to result in physical injury
 - Sexual abuse
 - Sexual activity involving a dependent child
 - Being forced as a caretaker relative of a dependent child to engage in non-consensual acts or activities.
 - Threats of or attempts at physical or sexual abuse
 - Mental abuse, and

- Neglect or deprivation of medical care. BEM, Item 255, pp.2-3

This Administrative Law Judge finds that claimant does not have good cause for failure to provide information about her child's father. Even if what the claimant states is true, in that she was drunk, does not remember who the man is, does not know the man's name, location and may have only seen him one time because of a one night stand, lack of knowledge is not an established good cause reason in policy for failure to provide information. Therefore, this Administrative Law Judge finds that the department has established by the necessary competent, material and substantial evidence on the record that it was acting in compliance with department policy when it proposed to cancel claimant's Family Independence Program, Food Assistance Program, and Medical Assistance benefits because claimant did not provide information about the paternity of her child. Claimant does have two older children, and she is not married to the father of those children. Claimant has knowledge that she would also have to provide information for the current baby that she has. Claimant did not establish good cause for her failure to provide information about the paternity of her child. Claimant's testimony is not credible. Therefore, the department's actions must be UPHELD.

The claimant's attorney signed an affidavit for the claimant stating that they provided information to the Child Support Specialist on January 10, 2011, regarding claimant's ex-boyfriend. Although the department can now research claimant's ex-boyfriend's background and determine whether or not he is the father of claimant's child, this does not change the fact that claimant failed to provide any information to the department when it was asked for and the department's case must be UPHELD.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department has appropriately established on the record that it was acting in compliance with department policy when it proposed to cancel claimant's Family Independence Program based upon its' determination that claimant did not provide good cause for her failure to provide information about the paternity of her child and based upon the fact that she did not provide any information about the paternity of her child.

Accordingly, the department's decision is AFFIRMED.

Landis

/s/

Y. Lain

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

Date Signed: March 28, 2011

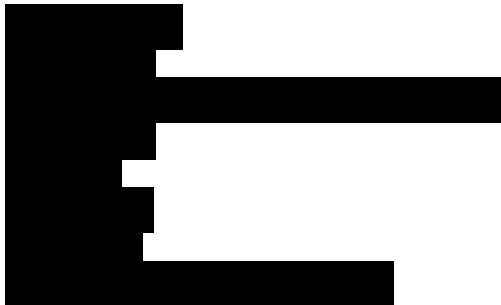
Date Mailed: March 28, 2011

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.

LYL/alc

cc:

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