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

IN THE MATTER OF:

█████████
████████████

Reg. No.:	201220963
Issue No.:	2006, 3008
Case No.:	████████
Hearing Date:	March 7, 2012
County:	Wayne DHS (57)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 following Claimant's request for a hearing. After due notice, a telephone hearing was held on March 7, 2012 from Detroit, Michigan. Participants on behalf of Claimant included the above named claimant. Participants on behalf of Department of Human Services (DHS) included ██████████████, Manager, ███████, Specialist, and █████████████, Office of Child Support (OCS) Specialist.

ISSUE

The issue is whether DHS properly reduced Claimant's Food Assistance Program (FAP) and terminated Claimant's Medical Assistance (MA) eligibility based on an alleged failure to cooperate with child support.

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 an ongoing FAP and MA benefit recipient.

2. On an unspecified date, OCS contacted Claimant concerning the paternity of one of her children, ██████ (██████████████).

3. Claimant reported to OCS that █████ was conceived out of an incident of rape and that Claimant was unable to identify her father.

4. DHS subsequently evaluated whether Claimant had good cause for failing to provide paternity information for █████.

5. DHS found Claimant lacked good cause for the alleged lack of cooperation, primarily due to Claimant's failure to provide any supporting documentation for the good cause.

6. On 11/1/11, OCS determined that Claimant was uncooperative with obtaining child support for ███.

7. On 12/5/11, DHS imposed a child support disqualification thereby reducing Claimant's FAP benefit eligibility and terminating Claimant's MA benefit eligibility effective 1/2012.

8. On 12/15/11, Claimant requested a hearing to dispute the adverse actions taken to her FAP and MA benefit eligibility.

CONCLUSIONS OF LAW

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

☐ The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 42 USC 601, *et seq.* The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, R 400.3101 through R 400.3131. FIP replaced the Aid to Dependent Children (ADC) program effective October 1, 1996.

☒ 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 (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, R 400.3001 through R 400.3015.

☒ 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.

☐ The Adult Medical Program (AMP) is established by 42 USC 1315, and is administered by the Department pursuant to MCL 400.10, *et seq.*

☐ The State Disability Assistance (SDA) program, which provides financial assistance for disabled persons, is established by 2004 PA 344. The Department of Human Services (formerly known as the Family Independence Agency) administers the SDA

program pursuant to MCL 400.10, *et seq.*, and 2000 AACS, R 400.3151 through R 400.3180.

☐ 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 provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001 through R 400.5015.

Federal regulations and administrative rules require that FIP, Medicaid, Food Stamp, and Day Care applicants and recipients cooperate in establishing paternity and securing support from non-custodial parents and pursue potential benefits in order to receive assistance. 4DM at 1. The requirement to cooperate in support actions may be waived by the assistance agency when a client has good cause not to cooperate. *Id.*

BEM 255 describes the importance of child support and its cooperation requirements, "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 at 1. DHS regulations further mandate, "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." *Id.* The child support specialist (CSS) determines cooperation for required support actions. *Id* at 8.

Exceptions to the cooperation requirement are allowed for all child support actions except when the recipient fails to return assigned child support payments received after the support certification effective date. BEM 255 at 2. There are two types of good cause. *Id* at 3. The first type involves cases in which establishing paternity or securing support would harm the child. For example, DHS is to not require cooperation/support action if the child was conceived due to incest or forcible rape. *Id.*

A good cause claim must do all of the following: specify the reason for good cause, specify the individuals covered by it and be supported by written evidence or documented as credible. *Id.* at 4. If written evidence does not exist, DHS is to document why none is available and determine if the claim is credible. *Id.* DHS is to base credibility determination on available information, including client statement and/or collateral contacts with individuals who have direct knowledge of the client's situation. *Id.*

Claimant contended that she had good cause for not cooperating with child support because her child was conceived during a forcible rape. DHS evaluated the good cause claim but ultimately denied the good cause because Claimant failed to provide any supporting verification for the underlying incident.

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Claimant testified that at the time of the rape, she was a drug user and prostitute. Claimant stated that she did not file a police report, in part, because of the above factors. Claimant testified that she had no hospital records because the incident involved a sexual assault more than a physical assault (i.e. Claimant was not physically injured from the assault). Claimant stated that during her pregnancy she changed her life and ceased using drugs. Claimant stated she made this change on her own; thus, there is no record of any drug treatment.

A police report, hospital record or drug treatment record would tend to support Claimant's testimony. Claimant had none of these records because she states that they don't exist. The inability to verify any aspect involved in the rape makes Claimant's testimony problematic. However, an unverified good cause assertion is not necessarily fatal to establishing good cause. In the absence of verification, circumstantial evidence may be considered.

Claimant presented very unflattering testimony of her past. Unflattering testimony tends to be more credible than flattering testimony.

The evidence established that Claimant had two other children for which paternity was not an issue. One child was the subject of a court order. A second child's father was verified to be deceased. Generally, having one child with unidentified paternity is more believable than having multiple children with unidentified paternity. This issue was further supported in that the child with alleged unknown paternity had Claimant's last name; Claimant's two other children took on the names of their fathers.

The child involved in the alleged lack of cooperation is a teenager. Generally, an inability to establish paternity is more credible for an older child than for a younger child. The approximate fourteen year lapse since conception makes it unlikely that Claimant could provide any useful information in establishing paternity for her child.

Though Claimant failed to verify any support for her claim of good cause, her testimony was generally credible concerning why she was unable to establish paternity. Based on the presented evidence, it is found that Claimant was cooperative with obtaining child support and that the child support disqualification is improper. As it was not disputed that the FAP and MA benefit determination effective 1/2012 was based, in part, on a child support disqualification, the FAP and MA benefit calculation is found to be improper.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department
☐ did act properly when
☒ did not act properly in imposing a child support disqualification effective 1/2012
thereby adversely affecting Claimant's FAP and MA benefit eligibility.

Accordingly, the Department's ☐ AMP ☐ FIP ☒ FAP ☒ MA ☐ SDA ☐ CDC decision is ☐ AFFIRMED ☒ REVERSED for the reasons stated on the record.

☒ THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. recalculate Claimant's FAP and MA benefit eligibility effective 1/2012 subject to the finding that Claimant had good cause for not reporting paternity of her daughter;
2. supplement Claimant for any benefit not received as a result of the improper child support disqualification; and
3. remove any associated child support disqualification from Claimant's support history.

Christian Gardocki
Christian Gardocki
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: <u>March 12, 2012</u>

Date Mailed: <u>March 12, 2012</u>

NOTICE: Michigan Administrative Hearing System (MAHS) 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. MAHS 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. (60 days for FAP cases).

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.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:

  - misapplication of manual policy or law in the hearing decision,
  - typographical errors, mathematical error, or other obvious errors in the hearing decision that effect the substantial rights of the claimant:
  - the failure of the ALJ to address other relevant issues in the hearing decision.

Request must be submitted through the local DHS office or directly to MAHS by mail to:
    Michigan Administrative hearings
    Reconsideration/Rehearing Request
    P. O. Box 30639
    Lansing, Michigan 48909-07322

CG/hw

cc: