

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No.: 201221745  
Issue No.: 3008  
Case No.: [REDACTED]  
Hearing Date: March 5, 2012  
County: Wayne DHS (19)

**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 5, 2012 from Detroit, Michigan. Participants on behalf of Claimant included the above named claimant. Participants on behalf of Department of Human Services (DHS) included [REDACTED], Manager, [REDACTED], Specialist, and [REDACTED], 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. In 2010, Claimant applied for FAP and MA benefits.
2. At application, DHS did not advise Claimant of an existing child support disqualification due to a lack of cooperation in establishing paternity for Claimant's triplets.
3. At application, DHS did not advise Claimant of the opportunity to claim good cause for failing to cooperate with child support.

4. DHS did not initially factor a child support disqualification into the calculation of Claimant's ongoing benefit eligibility.
5. On 11/29/11, DHS reduced Claimant's FAP benefit eligibility and terminated MA benefits for Claimant effective 1/2012 due to the previously existing child support disqualification (see Exhibit 1).
6. On 12/9/11, Claimant requested a hearing to dispute the FAP and MA benefit actions.

### **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 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.

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.

On 11/29/11, DHS reduced Claimant's FAP benefit eligibility and terminated ongoing Medicaid for Claimant. It was not disputed that the impetus for the actions was a pre-existing child support sanction against Claimant. It was also not disputed that the disqualification was based on Claimant's alleged failure to provide paternity information for triplets born to her 1/13/09.

DHS' and Claimant's testimony established that Claimant applied for FAP and MA benefits in 2010. DHS testimony tended to establish that a pre-existing child support disqualification existed at the time of the 2010 FAP and MA benefit application. Claimant gave testimony that she is hesitant to seek child support from the biological father of her triplets due to threats made by the biological father. Claimant's testimony suggested a basis for good cause for not cooperating with child support.

At application, a client has 10 days to cooperate with the OCS. BEM 255 at 10. Bridges informs the client to contact the OCS in the verification checklist (VCL). *Id.* Exceptions to the cooperation requirement (i.e. good cause) 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. *Id.* at 2. DHS is to inform the individual of the right to claim good cause by giving them a DHS-2168, Claim of Good Cause - Child Support, at application, before adding a member and when a client claims good cause. *Id.*

DHS conceded that it is unlikely that Claimant was informed of the opportunity to establish good cause for the child support disqualification at any time since she applied for FAP and MA benefits in 2010. Claimant would have no reason to raise the issue until 11/2011, the month that DHS took an adverse action concerning the child support disqualification. It is found that DHS failed to consider Claimant's assertion of good cause for not cooperating with child support. It was not disputed that the adverse actions concerning Claimant's FAP and MA benefit eligibility were based solely on child support cooperation issues. Accordingly, it is found that the adverse FAP and MA benefit actions were improper prior to a consideration of good cause in failing to cooperate in establishing paternity for Claimant's triplets.

### **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 when reducing Claimant's FAP eligibility and terminating Claimant's MA benefit eligibility effective 1/2012.

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. evaluate whether Claimant has good cause for failing to cooperate with child support as directed by DHS regulations; and
2. redetermine Claimant's FAP and MA benefit eligibility effective 1/2012 if Claimant is found to establish good cause for failing to cooperate with child support.



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

Date Signed: March 12, 2012

Date Mailed: March 12, 2012

**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:

