

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201237562
Issue No.: 2006
Case No.: [REDACTED]
Hearing Date: May 3, 2012
County: Wayne DHS (18)

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, an in-person hearing was held on May 3, 2012 from Taylor, Michigan. Participants on behalf of Claimant included the above named claimant; [REDACTED] testified and appeared as Claimant's authorized hearing representative. Participants on behalf of Department of Human Services (DHS) included [REDACTED], Specialist.

ISSUE

The first issue is whether Claimant timely requested a hearing to dispute a Notice of Case Action sent on 2/10/11.

If it is found that Claimant timely requested a hearing, the second issue is whether DHS properly denied Claimant MA benefit application, dated 12/10/11, based on an alleged failure by Claimant to cooperate with obtaining 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. On 12/9/2010, Claimant applied for MA benefits.
2. On 2/10/11, DHS denied Claimant's MA benefit application due to an alleged failure by Claimant to comply with child support reporting requirements.
3. Claimant was compliant with child support reporting requirements.

4. On 4/14/2011, Claimant requested a hearing (see Exhibit 1) to dispute the MA benefit denial.

CONCLUSIONS OF LAW

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). DHS administers the MA program pursuant to MCL 400.10, et seq., and MCL 400.105. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

BAM 600 contains the DHS policy for administrative hearings including the client deadline to file a hearing request. Clients have 90 calendar days from the date of the written notice of case action to request a hearing. BAM 600 at 4.

Claimant requested a hearing to dispute a denial of MA benefits. DHS sent written notice of the denial on 2/10/11. It was not disputed that Claimant's representing agency requesting a hearing on 12/22/11. Claimant contended that an earlier request was submitted to DHS on 4/14/11. DHS contended that no earlier hearing request was received.

Claimant's AHR presented a fax confirmation verifying a fax transmission date for a hearing request sent on 4/14/11. Claimant's AHR testified that the fax number on the confirmation represented Claimant's former DHS office, the one responsible for the application denial dated 2/10/11. No evidence was presented to question the authenticity of the fax confirmation. It is found that Claimant submitted a hearing request to DHS on 4/14/11. The 4/14/11 dated hearing request is found to be timely in order to dispute an MA benefit application denial dated 2/10/11. Because it is found that Claimant timely requested a hearing, the substance of Claimant's hearing request may be considered.

It was not disputed that DHS denied Claimant's MA benefit application dated 12/9/10 due to an alleged failure by Claimant to comply with child support reporting requirements. Federal and state laws and regulations require that applicants and recipients of FIP, MA and FAP benefits cooperate with OCS in obtaining child support as a condition of benefit eligibility. 4DM 115 at 1. The goal of the cooperation requirement is to obtain child support. Information provided by the client provides a basis for determining the appropriate support action. *Id.* Cooperation from the client will enhance and expedite the process of establishing paternity and obtaining support. *Id.*

The Child Support Specialist obtains information and determines a client's cooperation except for issues of client received support and applications by day care clients. *Id.* at 3. The Support Specialist is required to inform the client of the obligation to cooperate in providing information and taking actions to obtain support. *Id.* at 4. The Support

Specialist must also inform the client about support disqualifications and the possibility that the agency will proceed with support action without client cooperation. *Id.*

Cooperation includes, but is not limited to: identifying the non-custodial parent or alleged father, locating the non-custodial parent (including necessary identifying information and whereabouts, if known), appearing at reasonable times and places as requested to provide information or take legal action (e.g., appearing at the office of the Support Specialist, the Prosecuting Attorney, or the Friend of the Court, or as a witness or complainant at a legal proceeding) and providing all known, possessed or reasonably obtainable information upon request which relates to establishing paternity and /or securing support. *Id at 2.* Non-cooperation exists when: a client willfully and repeatedly fails or refuses to provide information and/or take an action resulting in delays or prevention of support action. *Id.* OCS and DHS policy is to find a client out of compliance with the cooperation requirement only as a last resort. *Id.* at 1.

DHS did not present a CSS to testify. The child support cooperation could be reasonably decided on the basis that DHS failed to present any evidence supporting the noncooperation finding. However, Claimant presented testimony and documentation concerning the child support issue.

It was not disputed that Claimant is the mother of one child; thus, there is no doubt concerning which child's paternity is in issue. Claimant stated that she was contacted by the CS unit concerning her child's paternity. Claimant testified that she advised her CSS that her child was conceived by artificial insemination from an anonymous donor. Claimant testified that the CSS responded that Claimant was still responsible for reporting the identity of the child's father.

Per 4DM Section 2.10, a CSS is to use a DHS-998 in all cases when the custodial parent claims that the father's name and location are unknown, the child is the product of artificial reproductive technology (ART), there is no private agreement identifying the father and the parents are not married. The DHS-998 requires that the custodial parent attest to the use of ART in conceiving the child and that no information is known about the father.

There was no evidence that DHS ever mailed Claimant a DHS-998. Taking Claimant at her word, the CS unit actions were worse than a mere error in failing to mail a form. Claimant persuasively described a very thoughtless and disgruntled reaction by the CS unit in response to Claimant's explanation concerning her child's paternity. Claimant was unable to verify that her child was conceived from a private donor but medical documentation was presented to establish the artificial insemination (see Exhibits 2-3). Despite the failure to verify an anonymous donor, the burden lies with DHS to establish a lack of cooperation. DHS completely failed in meeting that burden.

It was not disputed that Claimant's MA benefit application dated 12/9/10 was denied solely on the basis that Claimant was uncooperative with obtaining child support. As it is

found that Claimant was not uncooperative, it is found that DHS erred in denying Claimant's application for MA benefits.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly denied Claimant's application for MA benefits dated 12/9/10. It is ordered that DHS:

1. reinstate Claimant's MA benefit application dated 12/9/10;
2. process Claimant's application subject to the finding that Claimant was cooperative with obtaining child support; and
3. supplement Claimant for any benefits not received as a result of the DHS denial error.

The actions taken by DHS are REVERSED.



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

Date Signed: May 15, 2012

Date Mailed: May 15, 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 at

201237562/ CG

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

CG/hw

cc:

