

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

IN THE MATTER OF:



Reg. No.: 2012-39745
Issue Nos.: 1025; 3008; 6043
Case No.: [REDACTED]
Hearing Date: April 16, 2012
County: Wayne (82-18)

ADMINISTRATIVE LAW JUDGE: Robert J. Chavez

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 April 16, 2012, from Detroit, Michigan. Participants on behalf of Claimant included [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED].

ISSUE

Did the Department properly deny Claimant's application close Claimant's case for:

- | | |
|--|---|
| <input checked="" type="checkbox"/> Family Independence Program (FIP)? | <input type="checkbox"/> Adult Medical Assistance (AMP)? |
| <input checked="" type="checkbox"/> Food Assistance Program (FAP)? | <input type="checkbox"/> State Disability Assistance (SDA)? |
| <input type="checkbox"/> Medical Assistance (MA)? | <input checked="" type="checkbox"/> Child Development and Care (CDC)? |

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 applied for benefits received benefits for:

- | | |
|--|---|
| <input checked="" type="checkbox"/> Family Independence Program (FIP). | <input type="checkbox"/> Adult Medical Assistance (AMP). |
| <input checked="" type="checkbox"/> Food Assistance Program (FAP). | <input type="checkbox"/> State Disability Assistance (SDA). |
| <input type="checkbox"/> Medical Assistance (MA). | <input checked="" type="checkbox"/> Child Development and Care (CDC). |

2. On February 28, 2012, the Department
 denied Claimant's application closed Claimant's case
due to a paternity noncooperation action, and failing to return requested
verifications.
3. On February 28, 2012, the Department sent
 Claimant Claimant's Authorized Representative (AR)
notice of the denial. closure.
4. On March 12, 2012, Claimant filed a hearing request, protesting the
 denial of the application. closure of the case.

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 1999 AC, Rule 400.3101 through Rule 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 1999 AC, Rule 400.3001 through Rule 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, Rule 400.3151 through Rule 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 1999 AC, Rule 400.5001 through Rule 400.5015.

Regulations governing the Office of Child Support (OCS) can be found in the Office of Child Support Policy Manual (OCSPM).

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. Failure to cooperate without good cause results in disqualification. Disqualification includes member removal, denial of program benefits, and/or case closure, depending on the program. BEM 255.

Noncooperation exists when the custodial parent (CP) does not respond to a request for action or does not provide information, and the process to establish paternity and/or a child support order cannot move forward without the CP's participation. A CP is in noncooperation with the IV-D program when the CP, without good cause, willfully and repeatedly fails or refuses to provide information and/or take an action needed to establish paternity or to obtain child support or medical support. OCSPM 2.15. IV-D staff apply noncooperation to a CP **only as a last resort** when no other option is available to move the IV-D case forward. OCSPM 2.3.

There is no minimum information requirement. CPs can be required to provide known or obtainable information about themselves, the child(ren) for whom support is sought, and the non-custodial parent (NCP) when needed to obtain support. OCSPM 2.3.1.

In evaluating cooperation, the IV-D worker should consider such factors as the CP's marital status, the duration of his/her relationship with the NCP, and the length of time since the CP's last contact with the NCP. OCSPM 2.3.1.

A CP can be required to cooperate by attesting under oath to the lack of information regarding an NCP. This may assist in determining cooperation in cases in which a CP's willingness to cooperate is questionable but there is insufficient evidence for a finding of noncooperation. The IV-D worker is not required to provide a CP with the opportunity to attest under oath if the CP has not demonstrated a willingness and good-faith effort to provide information. In this situation, the IV-D worker must evaluate whether the CP has knowingly withheld information or given false information, and base a decision on that evidence. OCSPM 2.3.5.

With regard to the FIP, FAP and CDC portions of claimant's case, OCS testified that claimant had indicated that the NCP in question was a person met at a bar and the child in question was born of a one-night stand. Claimant had testified, both at the hearing,

and to OCS, that she was drunk at the time of the incident and remembered very little about the NCP. OCS told claimant to return to the bar and question her friends; claimant did so, but reported that nobody knew the person in question. OCS responded by immediately placing claimant into noncooperation status.

There is no evidence in this case that claimant was willfully failing or refusing to cooperate. Claimant's only crime, with regards to OCS, was the dearth of information she provided. IV-D policy specifically states that there is no minimum information requirement, and the OCS may not sanction merely on the lack of information provided. OCS must have affirmative proof that the claimant is willfully and repeatedly refusing to provide information. Noncooperation is only to be used as a last resort, and there is no evidence that other avenues had been explored; by their own testimony, claimant was placed into noncooperation after first reporting that she had been unable to find more information. This is hardly an example of using noncooperation as a last resort; by all appearances, OCS used noncooperation as a punishment because claimant had not provided satisfactory information.

Given the factual details surrounding the NCP at this point, according to OCS's own manual, claimant could not have been expected to provide a trove of information. Furthermore, there were other avenues, including allowing claimant to attest to an affidavit her lack of information, before noncooperation could be found. By all accounts, claimant was keeping in contact with OCS, was following requested instructions, and was making an effort to find the information needed. Claimant cannot be punished because she failed to provide enough information to satisfy OCS. The definition of noncooperation is willful and repeated failure to furnish known information; in the current case, there is no evidence that the information was known and that the failure to provide it was willful, much less repeated.

Therefore, claimant should not have been placed into noncooperation status, and the Department erred when it did so.

However, with regards to the FAP program, claimant's case was also closed because claimant failed to return legitimately requested information. The Department had sent claimant a verification checklist containing requests needed to determine eligibility. Claimant did not return the information required. The Department may request information needed to determine eligibility. BAM 130. Claimant was allowed a chance to prove that the information was returned and was unable to provide such evidence. There is no evidence that claimant returned the information and, therefore, the Department was correct when it denied claimant's FAP benefits.

The undersigned notes that this reasoning only applies to the FAP case; according to the notice of case action, only claimant's FAP case was denied for failing to return verifications. All other programs were denied solely because of the OCS noncooperation at issue. As these programs were not affected by the verification issue, the Department remains in error with regard to the FIP and CDC cases and is only upheld with regard to the FAP case.

Based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, the Administrative Law Judge concludes that the Department

- properly denied Claimant's application for FAP
- improperly denied Claimant's application for FIP and CDC

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 with regard to FAP.
- did not act properly with regard to FIP and CDC.

Accordingly, the Department's decision in this case is **AFFIRMED IN PART** and **REVERSED IN PART**.

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

1. Remove the noncooperation sanction from claimant's case, and reprocess the FIP and CDC portions of her February 2, 2012, benefit application.



Robert J. Chavez
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: April 30, 2012

Date Mailed: April 30, 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
Michigan Administrative Hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

RJC/pf

cc:

