

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2012-26686
Issue No.: 2006
Case No.: [REDACTED]
Hearing Date: May 16, 2012
County: Wayne (15)

ADMINISTRATIVE LAW JUDGE: Michael J. Bennane

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

ISSUE

Did the Department properly close the claimant's MA?

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 January 1 2012, the Department closed the claimant's MA after receiving notice from the Office of Child Support (OCS) that the claimant was not in compliance with its attempts to locate the claimant's child's father.
2. On December 17, 2011, the Department sent the claimant a notice that her MA would close for failure to cooperate with OCS.
3. On December 28, 2011, the claimant requested a hearing protesting the closure of her MA.
4. The Department closed the claimant's MA even though the claimant had requested a hearing before the Department closed the claimant's MA.

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 ACS, 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.

Additionally, a finding of noncooperation can be found against,

DEPARTMENT POLICY

FIP, CDC Income Eligible, MA and FAP

The custodial parent or alternative caretaker of children 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. (BEM 255, p.1).

There is no qualifying of an alternative caretaker as someone who might reasonably have such information.

However, the department failed to follow BEM 255.

SUPPORT DISQUALIFICATION

FIP, CDC Income Eligible, MA and FAP

Bridges applies the support disqualification when a begin date of non-cooperation is entered and there is no pending or approved good cause. The disqualification is not imposed if any of the following occur on or before the timely hearing request date; see BAM 600, Hearings:

OCS records the comply date.

The case closes for another reason.

The non-cooperative client leaves the group.

Support/paternity action is no longer a factor in the child's eligibility (for example, the child leaves the group).

Client cooperates with the requirement to return assigned support payments to DHS and the support is certified.

Client requests administrative hearing. (BEM 255, p.9).

Here, the Department did not follow the above restriction and "not impose the disqualification" after the, "Client requests administrative hearing."

Furthermore, the records shows that the OCS failed to attend the hearing.

This issue has been adjudicated by Michigan's appellate court:

In *Black v Dept of Social Services*, 195 Mich App 27 (1992), the Court of Appeals addressed the issue of burden of proof in a non-cooperation finding. Specifically, the court in *Black* ruled that to support a finding of non-cooperation, the agency has the burden of proof to establish that the mother (1) failed to provide the requested verification and that (2) the mother knew the requested information. The *Black* court also emphasized the fact that the mother testified under oath that she had no further information and the agency failed to

offer any evidence that the mother knew more than she was disclosing. *Black* at 32-34.

In the instant case:

1. The claimant filed for a hearing in a timely manner; which should have caused the Department to remove the support disqualification. (BEM 255, p. 9).
2. The claimant testified that she had provided the Department with all the information she had, and there was no evidence presented to the contrary. (*Black v Dept of Social Services*, 195 Mich App 27 (1992)).


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 it closed the claimant's MA.

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. Reinstate the claimant's MA back to its closure on January 1, 2012, and replace any lost benefits if applicable.



Michael J. Bennane
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: May 29, 2012

Date Mailed: May 29, 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

MJB/cl

cc:

