

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2012-29210
Issue No.: 1003/1005
Case No.: [REDACTED]
Hearing Date: March 22, 2012
County: Muskegon

ADMINISTRATIVE LAW JUDGE: C. Adam Purnell

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 22, 2012, from Lansing, Michigan. Claimant personally appeared and provided testimony. Participants on behalf of Department of Human Services (Department) included [REDACTED] ek (Family Independence Manager), [REDACTED] (JET-FIS worker) and [REDACTED] (Lead Support Specialist with the Office of Child Support).

ISSUE

Did the Department properly close Claimant's Family Independence Program (FIP) benefits based on noncooperation with the Office of Child Support (OCS)?

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 active recipient of FIP benefits.
2. Since August, 2003, Claimant had legal guardianship over her niece (D.O.B. 2/8/03).
3. On February 7, 2011, Claimant received a letter requesting information about her niece's absent parent in order to pursue child support. The letter contained a phone number along with instructions for Claimant to call the OCS. In this letter, Claimant was advised that failure to cooperate with the OCS may result in sanctions including closure of benefits.

4. Claimant attempted to call the OCS at the phone number provided in the letter on two separate occasions but was informed that the OCS phone system was not working at the time.
5. Claimant did not make any subsequent attempts to contact the OCS either by phone or in writing.
6. On June 20, 2011, Claimant received a letter from OCS again advising her to contact the OCS regarding absent parent information for her niece. This letter contained the OCS phone number along with a questionnaire.
7. In July, 2011, Claimant called the OCS and left a voicemail message at the number provided on the letter. Claimant did not return the questionnaire to OCS.
8. On November 21, 2011, Claimant received a letter indicating that the OCS found that she was in non-cooperation status.
9. On November 23, 2011, the Department mailed Claimant a Notice of Case Action (DHS-1605) closing her FIP benefits effective January 1, 2012 because she "failed to cooperate in establishing paternity or securing child support." The DHS-1605 letter also contained a telephone number instructing Claimant to contact OCS.
10. On January 13, 2012, Claimant requested a hearing challenging the FIP closure.

CONCLUSIONS OF LAW

The client has the right to request a hearing for any action, failure to act or undue delay by the department. BAM 105. The department provides an administrative hearing to review the decision and determine its appropriateness. BAM 600.

The regulations that govern the hearing and appeal process for applicants and recipients of public assistance in Michigan are contained in the Michigan Administrative Code (Mich Admin Code) Rules 400.901 through 400.951. An opportunity for a hearing shall be granted to a recipient who is aggrieved by an agency action resulting in suspension, reduction, discontinuance, or termination of assistance. Mich Admin Code 400.903(1).

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 8 USC 601, *et seq.* The Department of Human Services (DHS or department) administers the FIP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3101-3131. The FIP program replaced the Aid to Dependent Children (ADC) program effective October 1, 1996. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (PRM).

Department policy indicates that clients are required to pursue any potential benefits for which they may be eligible. BEM 270. One of these benefits is child support. The Department takes the position that families are strengthened when children's needs are met. BEM 255. Departmental policy provides that 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 (FOC) and the prosecuting attorney to establish paternity and/or obtain support from an absent parent. BEM 255.

Policy states that 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. Absent parents are required to support their children. BEM 255. Support includes **all** of the following: (1) child support, (2) medical support and (3) payment for medical care from any third party. BEM 255. A parent who does not live with the child due solely to the parent's active duty in a uniformed service of the U.S. is considered to be living in the child's home. BEM 255.

Failure to cooperate without good cause results in disqualification. BEM 255. Disqualification includes member removal, as well as denial or closure of program benefits, depending on the type of assistance (TOA). BEM 255. Exceptions to the cooperation requirement are allowed for all child support actions except failure to return assigned child support payments received after the support certification effective date. BEM 255.

Good cause will be granted only when requiring cooperation/support action is against the child's best interests and there is a specific good cause reason. BEM 255. Policy sets forth two types of good cause. The first type is cases in which establishing paternity/securing support would harm the child. The second is cases in which there is danger of physical or emotional harm to the child or client. BEM 255.

The department worker is responsible for determining if good cause exists. BEM 255. An application may not be denied nor may program benefits be delayed just because a good cause claim is pending. BEM 255. A good cause claim must do all of the following: (1) specify the reason for good cause; (2) specify the individuals covered by it; and (3) be supported by written evidence or documented as credible. BEM 255.

For purposes of FIP, cooperation is a condition of eligibility. BEM 255. The following individuals who receive assistance for themselves or on behalf of a child are required to cooperate in establishing paternity and obtaining support, unless good cause has been granted or is pending: (1) grantee (head of household) and spouse; (2) specified relative/individual acting as a parent and spouse; and (3) parent of the child for whom paternity and/or support action is required. BEM 255.

Cooperation is required in **all** phases of the process to establish paternity and obtain support which includes **all** of the following: (1) contacting the support specialist when requested; (2) providing all known information about the absent parent; (3) appearing at

the office of the prosecuting attorney when requested; (4) taking any actions needed to establish paternity and obtain child support (including but not limited to testifying at hearings or obtaining blood tests). BEM 255.

Failure to cooperate without good cause results in disqualification of the individual who failed to cooperate. BEM 255. The individual and their needs are removed from the FAP EDG for a minimum of one month. The remaining eligible group members will receive benefits. BEM 255.

The department's computer system (Bridges) will not restore or reopen benefits for a disqualified member until the client cooperates (as recorded on the child support non-cooperation record) or support/paternity action is no longer needed. BEM 255. Bridges will end the non-cooperation record if any of the following exist: (1) OCS records the comply date; (2) support/paternity action is no longer a factor in the client's eligibility (for example child leaves the group); (3) for FIP only, the client cooperates with the requirement to return assigned support payments, or an over issuance is established and the support is certified; (4) for FIP and FAP only, a one month disqualification is served when conditions (mentioned above) to end the disqualification are not met prior to the negative action effective date. BEM 255.

Here, Claimant was noncooperative and did not request good cause at any time. Claimant was sent at least three (3) letters from OCS. Claimant was instructed to contact OCS and provide the OCS with information regarding the absent parent. Although Claimant attempted to call the OCS, she failed to follow up and take the necessary steps to cooperate with OCS. She failed to call the OCS for several months after receiving the February 7, 2011 letter. Claimant was aware that failure to cooperate could result in the loss of FIP benefits. The evidence also shows that Claimant failed to return the questionnaire form to OCS. Based on the evidence provided, this Administrative Law Judge finds that Claimant was noncompliant with OCS and that she did not have good cause.

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 it closed Claimant's FIP for noncompliance with the Office of Child Support.

Accordingly, the Department's FIP CDC decision is AFFIRMED for the reasons stated above and for the reasons stated on the record.

/s/ _____
C. Adam Purnell
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 4/2/12

Date Mailed: 4/2/12

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

CAP/ds

