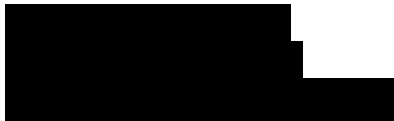


STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No: 201263502
Issue No: 1003, 3008
Case No: [REDACTED]
Hearing Date: August 14, 2012
Kent County DHS

ADMINISTRATIVE LAW JUDGE: Christopher S. Saunders

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon claimant's request for a hearing. After due notice, a telephone hearing was held on August 14, 2012. The claimant personally appeared and provided testimony.

ISSUE

Did the department properly sanctioned the claimant's Family Independence Program (FIP) and Food Assistance Program (FAP) benefits due to child support noncooperation?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

1. The claimant was a recipient of FIP and FAP benefits during the relevant time periods in question.
2. The claimant was sent a notice of noncooperation by the Office of Child Support on June 22, 2012 stating that she had failed to respond to an information request regarding the noncustodial parent and that due to said failure her benefits were subject to sanction. (Department Exhibit 16).
3. The claimant's FIP and FAP benefits were sanctioned as of August 1, 2012 due to her alleged noncooperation with child support and the claimant was mailed notice of such on June 22, 2012.
4. The claimant submitted a hearing request on July 2, 2012, protesting the sanctioning of her FIP and FAP benefits.

CONCLUSIONS OF LAW

As a preliminary matter, prior to the closure of the hearing record, the department representative testified that the claimant's FAP benefits had been sanctioned in error; because the claimant has a child less than six years of age in the home, her FAP case should not have been sanctioned. The department representative testified that the department would re-determine the claimant's eligibility for FAP benefits as of the date of negative action including her back in the FAP group. The department representative further testified that if the claimant was found to be eligible for additional benefits, the department would issue any past due benefits due and owing in accordance with policy. The claimant agreed that this was the proper course of action for the department to take. Therefore, as the department has stated that they will take action necessary to alleviate the claimant's grievance with the action, it is not necessary for the Administrative Law Judge to decide the issue as it pertains to the claimant's FAP case. The portion of the claimant's hearing request pertaining to the FAP issue is hereby dismissed.

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his claim for assistance is denied. MAC R 400.903(1).

Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. BAM 600. The department will provide an administrative hearing to review the decision and determine the appropriateness. BAM 600.

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 of Human Services (DHS or department) administers the FAP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3001-3015. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM).

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 Bridges Reference Manual (BRM).

Department policy states:

DEPARTMENT PHILOSOPHY

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, p. 1.

DEPARTMENT POLICY

FIP, CDC Income Eligible, MA and FAP

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.

Absent parents are required to support their children. Support includes **all** the following:

- . Child support
- . Medical support
- . Payment for medical care from any third party.

Note: For purposes of this item, 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.

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.

Exception: A pregnant woman who fails to cooperate may still be eligible for MA.

GOOD CAUSE FOR NOT COOPERATING

FIP, CDC Income Eligible, MA and FAP

Exceptions to the cooperation requirement are allowed for all child support actions **except** failure to return court-ordered support payments received after the payment effective date. Grant good cause **only** if:

- . requiring cooperation/support action is against the child's best interests, **and**
- . there is a specific "good cause" reason.

If good cause exists, cooperation is excused as an eligibility requirement for the child involved. It can still be required for another child in the same family. BEM 255, pp. 1-2.

Good Cause Reasons

FIP, CDC Income Eligible, MA and FAP

There are two types of good cause:

- . Cases in which establishing paternity/securing support would harm the child. Do **not** require cooperation/support action in any of the following circumstances.
 - .. The child was conceived due to incest or forcible rape.
 - .. Legal proceedings for the adoption of the child are pending before a court.
 - .. The client is currently receiving counseling from a public or licensed private social agency to decide if the child should be released for adoption, **and** the counseling has **not** gone on for more than three months.
- . Cases in which there is danger of physical or emotional harm to the child or client. Physical or emotional harm may result if the client or child has been subject to or is in danger of:
 - .. Physical acts that resulted in, or threatened to result in, physical injury.
 - .. Sexual abuse.
 - .. Sexual activity involving a dependent child.
 - .. Being forced as the caretaker relative of a dependent child to engage in nonconsensual sexual acts or activities.

- .. Threats of, or attempts at, physical or sexual abuse.
- .. Mental abuse.
- .. Neglect or deprivation of medical care. BEM 255, pp. 2-3.

COOPERATION

FIP, CDC Income Eligible, MA and FAP

Cooperation is a condition of eligibility. The following persons in the eligible group are required to cooperate in establishing paternity and obtaining support, unless good cause has been granted or is pending.

- . Grantee and spouse.
- . Specified relative/person acting as a parent and spouse.
- . Parent of the child for whom paternity and/or support action is required.

Cooperation is required in all phases of the process to establish paternity and obtain support and includes **all** of the following:

- . Contacting the SS when requested.
- . Providing all known information about the absent parent.
- . Appearing at the office of the prosecuting attorney when requested.
- . Taking any actions needed to establish paternity and obtain child support (e.g., testifying at hearings or obtaining blood tests).

SUPPORT DISQUALIFICATION

FIP, CDC Income Eligible, MA and FAP

You will be notified of a client's failure to cooperate by the SS or the child support noncooperation report. Start the support disqualification procedure upon receipt of this notice.

Do **not** impose the disqualification if any of the following occur during the negative action period:

- . You are notified by OCS that the client has cooperated.
- . The case closes for another reason.
- . The noncooperative person leaves the group.
- . Support/paternity action is no longer a factor in the child's eligibility (e.g., the child leaves the group).

For disqualifications based on failure to return court-ordered support, the client cooperates with the requirement of returning court-ordered support payments or the support order is certified. BEM 255, p. 9.

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. Department policy indicates that the head of the household and the parent 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 has been granted. BEM 255.

In the case at hand, the representative from the Office of Child Support (OCS) testified that the claimant had provided some information but that she did not provide enough information to identify the father's of the children in question. The OCS representative further testified that the claimant had stated that she would be calling the OCS with additional information and that she never called. The OCS representative testified that for the alleged father of Child A, the claimant provided the individual's name, a physical description, his age, and stated that he was currently incarcerated in a federal penitentiary. The OCS agent stated that the claimant was supposed to call the office back by June 21, 2012 with the name of a woman who was potentially the mother of another of this man's children. The OCS representative testified that the claimant did not call by the requested date to give this additional information.

Additionally, the OCS representative testified that in relation to the alleged father of Child B, the claimant provided the individual's name, his approximate age, a physical description, his location, and the industry he claimed to work in. The OCS representative further testified that the claimant stated that she was potentially able to give the individual's phone number by looking on an old cell phone and that the claimant was again to call the department back by June 21, 2012 with this information. The OCS representative testified that the claimant did not call by the requested date to give this additional information.

The claimant testified that she did in fact call the department by the requested date and informed the department that she was not able to procure the information in question despite efforts to do so. The claimant further testified that she did provide the department with the real name of Child A's potential father (she had previously only had a nickname) and that she had called several times prior to her deadline for giving the

additional information. The claimant testified that she left messages when she called the department.

The Administrative Law Judge credits the testimony of the claimant and finds that she did in fact call the department to provide the additional requested information. Furthermore, while the claimant was not able to provide the information that she originally thought that she may be able to, the Administrative Law Judge finds that the claimant has provided a substantial amount of information to the department regarding the potential fathers of her children. Accordingly, the Administrative Law Judge finds that the claimant has substantially complied with the requests of the OCS regarding

information on her children's potential fathers. The claimant has provided information she has available to her and therefore has cooperated with the office of child support.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department improperly sanctioned the claimant's FIP benefits due to child support noncooperation.

Accordingly, the department's actions are **REVERSED**.

It is HEREBY ORDERED that the department shall initiate a redetermination of the claimant's eligibility for FIP benefits. If the claimant is found to be otherwise eligible, the department shall re-instate benefits back to the date of negative action (August 1, 2012) and, if applicable, issue any past due benefits due and owing that the claimant may otherwise be eligible to receive.

/s/ _____
Christopher S. Saunders
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: August 24, 2012

Date Mailed: August 24, 2012

NOTICE: Administrative Hearings 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. Administrative Hearings will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 60 days of the filing of the original request.

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.

CSS/cr

cc:

