

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 20132156
Issue No: 6015
Case No: [REDACTED]
Hearing Date: February 14, 2013
Muskegon County DHS

ADMINISTRATIVE LAW JUDGE: Suzanne Morris

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 received on September 19, 2012. After due notice, a telephone hearing was held on February 14, 2013. Claimant personally appeared and provided testimony, along with [REDACTED], her daycare provider. The department witnesses were Rose Ward, AP Supervisor; [REDACTED], ES Worker; and [REDACTED], Office of Child Support.

ISSUE

Whether the department properly determined that Claimant's application for Child Development and Care Program (CDC) benefits should be denied due to an alleged status of non-cooperation with the Office of Child Support?

FINDINGS OF FACT

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

1. On July 20, 2012, Claimant applied for CDC benefits.
2. The claimant was mailed a Verification Checklist (DHS-3503) on July 20, 2012, requiring her to submit certain proofs by July 30, 2012. On this same form, the claimant was advised to contact the Office of Child Support (OCS) at a telephone number to comply with child support requirements.
3. On September 4, 2012, the claimant was mailed a Notice of Case Action (DHS-1605) that indicated her CDC application was denied for failure to cooperate with child support requirements.
4. The claimant submitted a hearing request on September 19, 2012.

CONCLUSIONS OF LAW

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 of that decision. BAM 600.

The Child Development and Care 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 of Human Services (DHS or department) provides services to adults and children pursuant to MCL 400.14(1) and MAC R 400.5001-5015. Department policies are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (RFT).

Department policy states that clients must cooperate with the local office in determining initial and ongoing eligibility. This includes completion of the necessary forms. Clients must take actions within their ability to obtain verifications and the department must assist clients when necessary. BAM 105. Particular sensitivity must be shown to clients who are illiterate, disabled or not fluent in English. BAM 105. Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level. BAM 130. Clients who are able but refuse to provide necessary information or take a required action are subject to penalties.

Moreover, 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. The department's philosophy is that 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. Support includes child support, medical support, and payment for medical care from any third party. 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.

Cooperation is a condition of eligibility. The grantee and spouse, the specified relative/person acting as a parent and spouse, and the parent of the child for whom paternity and/or support action is required in the eligible group, are required to

cooperate in establishing paternity and obtaining support, unless good cause has been granted or is pending. 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).

The department will be notified of a client's failure to cooperate by the SS or the child support noncooperation report. Upon receipt of this notice, the department starts the support disqualification procedure. The disqualification will not be imposed if any of the following occur during the negative action period:

- . The department is notified by the Office of Child Support (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.

At application, a client has 10 days to cooperate with the OCS. Bridges informs the client to contact the OCS in the verification check list. The disqualification is imposed if the client fails to cooperate on or before the VCL due date when all of the following are true: there is a begin date of noncooperation in the absent parent LUW; there is not a subsequent comply date; support/paternity action is still a factor in the child's eligibility; and good cause has not been granted nor is a claim pending. BEM 255. If the client is cooperating at reapplication, but has not served the minimum one-month penalty for FIP or FAP, Bridges determines eligibility for the month following the penalty month. BEM 255.

Failure to cooperate with child support requirements without good cause results in disqualification. Disqualification includes member removal, denial of program benefits, and/or case closure, depending on the program. However, a pregnant woman who fails to cooperate may still be eligible for Medicaid. BEM 255.

Exceptions to the cooperation requirement for FIP, CDC income eligible, Medicaid and FAP programs are allowed for all child support actions except failure to return court-ordered support payments received after the payment effective date. Good cause is granted 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, but it can still be required for another child in the same family. BEM 255.

Department policy requires the department to inform individuals otherwise eligible for the FIP, CDC Income Eligible, MA and FAP programs of the right to claim good cause by providing them with a DHS-2168, Claim of Good Cause – Child Support, at application, before adding a member and when a client claims good cause. BEM 255. The DHS-2168 explains the department's mandate to seek child support; cooperation requirements; the positive benefits of establishing paternity and obtaining support; procedures for claiming and documenting good cause; good cause reasons; penalties for noncooperation; and the right to a hearing. BEM 255.

Should a client claim good cause, both the department and the client must sign the DHS-2168 and the client must specify the type of good cause and the individual(s) affected. The department is responsible for determining if good cause exists and must not deny an application or delay program benefits just because a good cause claim is pending. The department must request that the client provide evidence of good cause within 20 calendar days of a claim and must allow an extension of up to 25 calendar days if the client has difficulty in obtaining the evidence. The department must make a good cause determination within 45 calendar days of receiving a signed DHS-2168 claiming good cause, unless a valid extension has been granted to the client.

In this case, Claimant disputes the department's denial of her CDC application due to her alleged noncooperation with child support requirements. At the hearing, Claimant testified that at the time she applied for her CDC benefits on July 20, 2012, she attempted to call the toll-free number on several occasions and couldn't reach anyone. She also testified that her worker, [REDACTED], gave her the IV-D Support Services Application/Referral (DHS-1201) to submit to the OCS. [REDACTED] further testified that she mailed in that form to the OCS right after she submitted her CDC application.

[REDACTED], from OCS, testified to the process for the DHS-1201 forms. She testified that all completed forms are mailed to central office in Lansing and scanned into the system. Each DHS county office has a geographical OCS office that they work with, but it is not the central office location. As Ms. Falcone is stationed in Detroit and servicing the Muskegon DHS office, she testified that it could be possible that the claimant submitted the DHS-1201 and it did not get forwarded to her. This Administrative Law Judge left the record open to allow Ms. Falcone to check with central office to determine if the claimant had submitted the requested information to central office.

Ms. Falcone responded to this Administrative Law Judge the following morning, on February 15, 2013 and indicated that central office had indeed received the claimant's DHS-1201 and that it was date stamped as received on August 10, 2012. Thus, the claimant did provide the required information to OCS as required.

Thus, this Administrative Law Judge finds that the claimant did cooperate with OCS requirements and the department should not have denied her initial July 20, 2012 for child support noncooperation.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department improperly denied Claimant's CDC benefit case because the claimant had complied with OCS requirements.

Accordingly, the department's actions are **REVERSED** and the department shall process claimant's July 20, 2012 CDC application and approve if all other eligibility criteria are met.

It is SO ORDERED.

/s/_____

Suzanne L. Morris
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: February 19, 2013

Date Mailed: February 20, 2013

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 90 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.

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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

SLM/cr

cc:

