

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-24262
Issue No.: 2006: 3008
Case No.: [REDACTED]
Hearing Date: March 20, 2013
County: Ottawa County DHS #70

ADMINISTRATIVE LAW JUDGE: Landis Y. Lain

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, an in-person hearing was held on March 20, 2013, from Holland, Michigan. Participants on behalf of Claimant included claimant. Participants on behalf of Department of Human Services (Department) included [REDACTED] De [REDACTED] Family Independence Manager, [REDACTED] Eligibility Specialist, and [REDACTED] Lead Child Support Specialist.

ISSUE

Did the Department of Human Services (the Department) properly propose to cancel claimant's Medical Assistance (MA) and Food Assistance Program (FAP) benefits based upon its determination that claimant had a child support sanction in place?

FINDINGS OF FACT

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

1. Claimant was an MA and FAP benefit recipient for herself and her two minor children.
2. On February 15, 2012, the Department of Human Services, Office of Child Support sent claimant a letter requesting that she provide information about the non-custodial parent of her son by August 29, 2012. (Department Exhibit #7)
3. Claimant did not provide any information about the non-custodial parent.
4. On September 6, 2012, the department sent a second and final Customer Contact letter to claimant, requesting information about the non-custodial parent of claimant's infant son. Information was due by November 14, 2012. (Department Exhibit #8)
5. Claimant failed to provide the requested information.

6. On November 23, 2012, the department Office of Child Support set claimant a non-cooperation notice, stating that claimant failed to provide information about the non-custodial parent of her son and that she would be considered to be non-cooperative with the child support program. (Department Exhibit #9)
7. On January 9, 2013, the department caseworker completed a MA/FAP redetermination for claimant. Due to the non-cooperation record entered by the Office of Child Support, claimant's Medical Assistance was discontinued and she was removed from the FAP group composition.
8. On January 9, 2013, the department caseworker sent claimant notice of the negative action.
9. January 9, 2013, claimant filed a request for a hearing to contest the department's negative action.

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 or her claim for assistance has been 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. The department will provide an administrative hearing to review the decision and determine the appropriateness of that decision. BAM 600.

Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

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 1997 AACSR 400.3001-3015

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 (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105.

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 (FOC) and the prosecuting attorney to establish paternity and/or obtain support from an absent parent.

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.

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

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

Failure to cooperate without good cause results in disqualification. Disqualification includes member removal, as well as denial or closure of program benefits, depending on the type of assistance (TOA); see [Support Disqualification](#) in this item. BEM, Item 255, page 1.

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 individual is currently receiving counseling from a licensed 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 non-consensual sexual acts or activities.
- Threats of, or attempts at, physical or sexual abuse.
- Mental abuse.
- Neglect or deprivation of medical care. BEM, Item 255, page 3.

Cooperation is a condition of eligibility. The following individuals who receive assistance on behalf of a child are required to cooperate in establishing paternity and obtaining support, unless good cause has been granted or is pending:

- Grantee (head of household) and spouse.
- Specified relative/individual acting as a parent and spouse.
- Parent of the child for whom paternity and/or support action is required. BEM, Item 255, page 7.

Failure to cooperate without good cause results in member disqualification. The adult member who fails to cooperate is **not** eligible for MA when both of the following are true:

- The child for whom support/paternity action is required receives MA.
- **The individual and child live together.**

Failure to cooperate without good cause results in disqualification of the individual who failed to cooperate. The individual and his/her needs are removed from the FAP EDG for a minimum of one month. The remaining eligible group members will receive benefits. BEM, Item 255, page 11.

In the instant case, claimant alleges that her son was conceived as a result of a one night stand. Claimant stated that her son's father is a stranger, who she met when she attended a wedding reception at a hotel. She makes no allegation of non-consensual sex, but states that she was drunk and much of the night is hazy. She did state in a letter dated December 6, 2012, that he was 6'2", fit, tall and thin, light blue or green eyes, light brown hair with fair skin. (Department Exhibit #10)

Claimant made no good cause allegations. Claimant acknowledged that she was not raped, nor had any relationship with her son's father beyond the initial act of conception. Claimant also stated on the record that she has Crohn's disease and had recently gotten her weight up and was healthier. She stated that her doctor said that she had a short window of time to ever conceive another baby and that she had considered artificial insemination. Claimant also testified that she has an older child, for whom she has provided paternity information to the department. Claimant testified that she has a recent diagnosis of Multiple Sclerosis and really needs her Medical Assistance. (Client's Exhibits #1-4)

The claimant's grievance centers on dissatisfaction with the department's current policy. The claimant's request is not within the scope of authority delegated to this Administrative Law Judge pursuant to a written directive signed by the Department of Human Services Director, which states:

Administrative Law Judges have no authority to make decisions on constitutional grounds, overrule statutes, overrule promulgated regulations or overrule or make exceptions to the department policy set out in the program manuals.

Furthermore, administrative adjudication is an exercise of executive power rather than judicial power, and restricts the granting of equitable remedies. *Michigan Mutual Liability Co. v Baker*, 295 Mich 237; 294 NW 168 (1940).

The Administrative Law Judge has no equity powers. Therefore, the Administrative Law Judge finds that the department has established by the necessary, competent, material, and substantial evidence on the record that it was acting in compliance with department policy when it determined that per BEM, Item 255 policy, claimant did not provide sufficient information to identify her child's father. The evidence suggests that claimant was aware that she would have to provide information about the non-custodial parent of her son in order to qualify for benefits even before the conception of her son as she has an older child for whom she receives department benefits. Even had claimant not been aware of the requirements of policy, claimant did not provide sufficient information to the office of child support to allow for the identification of the non-custodial parent. The child support sanction is appropriate under the circumstances. The child support non-cooperation and sanction which proposed to cancel claimant's Medical Assistance and Food Assistance Program eligibility must be upheld.

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 properly propose to cancel claimant's Medical Assistance (MA) and Food Assistance Program (FAP) benefits based upon its determination that claimant had a child support sanction in place. Under the circumstances, the child support sanction was properly imposed.

Accordingly, the Department's decision is **AFFIRMED**.

/s/
Landis Y. Lain
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: March 25, 2013

Date Mailed: March 26, 2013

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.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the mailing 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

LYL/las

cc:

