

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-28184
Issue No.: 2006
Case No.: [REDACTED]
Hearing Date: May 29, 2013
County: Ogemaw County DHS

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, a three-way telephone hearing was held on May 29, 2013, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] Claimant appeared and testified. Participants on behalf of Department of Human Services (Department) included Assistance Payments Worker [REDACTED] and General services Program Manager [REDACTED]

ISSUE

Did the Department of Human Services (the Department) properly deny claimant's Medical Assistance (MA) application based upon its determination that claimant had a child support sanction in place from a prior application?

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. On January 13, 2011, claimant (along with [REDACTED]) filed an application for Medical Assistance benefits.
2. On February 16, 2011, the Department of Human Services, sent claimant a DHS 1605 Notice of Case Action that his application was denied due to non-cooperation with child support. (Department Exhibits pages 23-29)
3. On March 11, 2011, [REDACTED] FAXED a letter to the department requesting a verification checklist.
4. On March 30, 2011, the department sent [REDACTED] a copy of the Notice of Case Action that had been sent to claimant on February 26, 2011.

5. On May 24, 2011, [REDACTED] filed a request for a hearing (after May 17, which is beyond the 90 day period for request for administrative hearing) to contest the department's negative action.
6. On July 8, 2011, claimant contacted the Office of Child Support and met the compliance date at which time the Child Support Sanction was lifted.

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 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.**

BEM, Item 255, page 11.

At application, client has 10 days to cooperate with the OCS. Bridges informs the client to contact the OCS in the verification check list (VCL). The disqualification is imposed if client fails to cooperate on or before the VCL due date when all of the following are true:

- There is a begin date of non-cooperation in the absent parent logical unit of work.
- There is **not** a subsequent comply date.
- Support/paternity action is still a factor in the child's eligibility.
- Good cause has not been granted nor is a claim pending; see [Good Cause For Not Cooperating](#) in this item. BEM, Item 255, page 10

Ask a disqualified client at application, redetermination or reinstatement if they are willing to cooperate. A disqualified member may indicate willingness to cooperate at any time. Immediately inform clients willing to cooperate to contact the primary worker from the CS icon or a support specialist can be reached by calling 1-866-540-0008 or 1-866-661-0005.

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, Item 255, page 12.

In the instant case, claimant received notice that he was non-compliant with child support and had been sanctioned in the form of Notice of Case Actions dated 10/26/10, 11/15/10, 11/17/10, and 2/06/11. Policy instructs the caseworker to ask a disqualified client at application, redetermination or reinstatement if they are willing to cooperate. A disqualified member may indicate willingness to cooperate at any time. The department conceded that they did not send claimant a Verification Checklist, but sent a notice of case action to claimant stating that his

“semi-annual contact and Medicaid application has been processed. [REDACTED] is not eligible for food Assistance of Medicaid due to non-cooperation with child support. Please contact the office of child support as soon as possible to get the sanction lifted.” (Department Exhibit, page 29)

In this case, the department failed to give claimant the opportunity to express willingness to comply with child support at application. The department caseworker failed to send notice of case action to [REDACTED] when they sent notice to claimant, even though [REDACTED] was listed on the application as an authorized representative. The department failed to provide the client with a verification checklist as is required by policy.

The Administrative Law Judge finds that the department has not 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 was aware that he had a child support sanction and that his application for Medical Assistance should be denied under the circumstances for failure to cooperate with the Office of Child Support.

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 not properly deny claimant's application for Medical Assistance (MA) based upon its determination that claimant had a child support sanction in place.

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

The department is ORDERED to reinstate claimant's January 31, 2011 application and process it in compliance with department policy. The department shall make an assessment of claimant's eligibility or lack thereof for Medical Assistance benefits and shall notify claimant and [REDACTED] in writing of said determination, and if claimant is otherwise eligible, open a Medical Assistance case for claimant.

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

Date Signed: May 29, 2013

Date Mailed: May 30, 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

2013-28184/LYL

Recons ideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-07322

LYL/las

cc:

