

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No: 201311903  
Issue No: 5008  
Case No: [REDACTED]  
Hearing Date: April 3, 2013  
Genesee County DHS #2

**ADMINISTRATIVE LAW JUDGE:** Suzanne D. Sonneborn

**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 by the Department of Human Services (department) on November 5, 2012. After due notice, a telephone hearing was held on April 3, 2013. Claimant appeared and provided testimony. The department was represented by [REDACTED], an eligibility specialist with the department's Genesee County office.

**ISSUE**

Whether the department properly denied Claimant's application for State Emergency Relief (SER) assistance?

**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 October 26, 2012, Claimant applied for SER assistance.
2. On October 31, 2012, the department mailed Claimant a State Emergency Relief Decision Notice (DHS-1419) advising Claimant that her application for SER assistance had been denied because she had failed to cooperate with child support requirements.
3. On October 31, 2012, Claimant submitted a hearing request protesting the department's denial of her SER application. In support of her hearing request, Claimant submitted a Cooperation Notice dated October 23, 2012 from the department's Office of Child Support, informing Claimant that, effective October 22, 2012, she was considered to be in cooperation with the child support program. (Request for a Hearing, Department Exhibit 2)

## **CONCLUSIONS OF LAW**

Clients have the right to contest a department decision affecting eligibility for benefit levels whenever it is believed that the decision is incorrect. BAM 600. The department provides an administrative hearing to review the decision and determine its appropriateness of that decision. 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 State Emergency Relief (SER) program was established by 2004 PA 344. The SER program is administered pursuant to MCL 400.10, *et seq.*, and by final administrative rules filed with the Secretary of State on October 28, 1993. MAC R 400.7001-400.7049. Department of Human Services (DHS or department) policies are found in the State Emergency Relief Manual (ERM).

Department policy states that 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. (Emphasis added).

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 October 26, 2012 SER application due to her noncooperation with child support requirements. At the April 3, 2013 hearing, Claimant testified that at the time she applied for SER assistance, she had a letter from the OCS dated October 23, 2012 informing her that, effective October 22, 2012, she was considered to be in cooperation with the child support program. The department representative acknowledged at the hearing that Claimant was indeed in cooperation with the OCS at the time the department denied her SER application and that the department's denial was therefore in error.

Accordingly, this Administrative Law Judge finds that, based on the competent, material, and substantial evidence presented during the hearing, the department improperly denied Claimant's October 26, 2012 SER application for noncooperation with child support requirements.

**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 October 26, 2012 SER application for noncooperation with child support requirements. Accordingly, the department's actions in this regard are **REVERSED** and the department shall reprocess Claimant's October 26, 2012 SER application and retroactively re-determine Claimant's eligibility for SER assistance at the time of her original application in accordance with the applicable department policy and award Claimant such SER assistance if she should have otherwise been entitled to it.

It is **SO ORDERED**.

/s/\_\_\_\_\_

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

Date Signed: April 4, 2013

Date Mailed: April 5, 2013

**NOTICE:** Michigan Administrative Hearings 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 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 this Order to Circuit Court within 30 days of the receipt of the 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 errors, or other obvious errors in the hearing decision that affect the substantial rights of Claimant;
  - The failure of the ALJ to address other relevant issues in the hearing decision.

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Request must be submitted through the local DHS office or directly to MAHS by mail at:

Michigan Administrative Hearings System  
Reconsideration/Rehearing Request  
P.O. Box 30639  
Lansing, MI 48909-07322

SDS/cr

cc:

