

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201322868
Issue No.: 2006, 3008
Case No.: [REDACTED]
Hearing Date: February 12, 2013
County: Genesee 02

ADMINISTRATIVE LAW JUDGE: C. Adam Purnell

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 telephone hearing was held on February 12, 2013, from Lansing, Michigan. Claimant personally appeared and provided testimony. Participants on behalf of Department of Human Services (Department) included [REDACTED] (Eligibility Specialist).

ISSUE

Did the Department properly reduce Claimant's Medical Assistance (MA) and Food Assistance Program (FAP) cases due to noncooperation with child support requirements?

FINDINGS OF FACT

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

1. Claimant was active for MA and FAP at all times.
2. On December 8, 2012, the Department mailed Claimant a Notice of Case Action (DHS-1605) which removed an adult group member ([REDACTED]) from MA Group 2 case and closed Claimant's FAP case due to non cooperation with child support requirements.
3. On December 13, 2012, Claimant requested a hearing to challenge the Department's decision to find her in noncooperation with child support and to contest the Department's actions taken against her MA and FAP cases.

CONCLUSIONS OF LAW

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

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 42 USC 601, *et seq.* The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, R 400.3101 through R 400.3131. FIP replaced the Aid to Dependent Children (ADC) program effective October 1, 1996.

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 Mich Admin Code, R 400.3001 through R 400.3015.

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

The Adult Medical Program (AMP) is established by 42 USC 1315, and is administered by the Department pursuant to MCL 400.10, *et seq.*

The State Disability Assistance (SDA) program, which provides financial assistance for disabled persons, is established by 2004 PA 344. The Department of Human Services (formerly known as the Family Independence Agency) administers the SDA program pursuant to MCL 400.10, *et seq.*, and 2000 ACS, R 400.3151 through R 400.3180.

The Child Development and Care (CDC) 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 provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001 through R 400.5015.

Department policy indicates that clients can pursue any potential benefits for which they may be eligible. BEM 270. One of these benefits is child support. BEM 255. The Department takes the position that families are strengthened when children's needs are met. BEM 255. The Department also believes that 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. BEM 255.

Department policy states that 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. BEM 255. Absent parents are required to support their children. BEM 255. Support includes all of the following: (1) child support, (2) medical support and (3) payment for medical care from any third party. BEM 255. 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. BEM 255.

Failure to cooperate without good cause results in disqualification. BEM 255. Disqualification includes member removal, as well as denial or closure of program benefits, depending on the type of assistance. BEM 255. However, a pregnant woman who fails to cooperate may still be eligible for MA. BEM 255.

Exceptions to the cooperation requirement are allowed for all child support actions except failure to return assigned child support payments received after the support certification effective date. BEM 255. The department policies require department workers to inform the individual of the right to claim good cause by providing them a Claim of Good Cause - Child Support Form (DHS-2168), at application, before adding a member and when a client claims good cause. BEM 255. The DHS-2168 explains all of the following: (1) the department's mandate to seek child support; (2) cooperation requirements; (3) the positive benefits of establishing paternity and obtaining support; (4) procedures for claiming and documenting good cause; (5) good cause reasons; (6) penalties for noncooperation; (7) the right to a hearing. BEM 255.

The department worker is responsible for determining if good cause exists. BEM 255. An application may not be denied nor may program benefits be delayed just because a good cause claim is pending. BEM 255. A good cause claim must do **all** of the following: (1) specify the reason for good cause; (2) specify the individuals covered by it; (3) be supported by written evidence or documented as credible. BEM 255.

Generally speaking, the department will request the client provide evidence of good cause within 20 calendar days of the claim. BEM 255. The department should allow an extension of up to 25 calendar days if the client has difficulty in obtaining the evidence. BEM 255. Department workers should assist clients in obtaining written evidence if needed and place any evidence in the case record. BEM 255. If written evidence does not exist, the department employee must document why none is available and determine if the claim is credible. BEM 255. **Credibility determinations are based on available information including client statement and/or collateral contacts with individuals who have direct knowledge of the client's situation. BEM 255.**

Verification of good cause due to domestic violence is required only when questionable. BEM 255.

The department will make a good cause determination within 45 calendar days of receiving a signed DHS-2168 claiming good cause. BEM 255. The OCS can review and offer comment on the good cause claim before the department employee makes the determination. BEM 255.

Here, the Department contends that Claimant's "spouse was removed from the group due to non-cooperation with the Office of Child Support." However, the Department has failed to put forward any evidence to show that Claimant's spouse was, in fact, in non-cooperation with OCS. The Department cannot sustain its burden of proof by simply asserting that Bridges indicates that noncooperation exists without any independent evidence to support this contention. At the very least, the Department should have a representative from OCS with personal knowledge regarding Claimant's case to testify regarding the facts giving rise to the finding of noncooperation with child support. Accordingly, this Administrative Law Judge finds that the Department has failed to show that Claimant's group member was in noncompliance with OCS which is necessary for the Department to show that the actions taken against Claimants MA and FAP are justified.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department improperly sanctioned Claimant's MA and FAP cases based on noncooperation with child support requirements.

Accordingly, the Department's determination is **REVERSED**. The department shall reinstate Claimant's MA and FAP cases back to the date of closure (December 1, 2012) and shall initiate a redetermination of Claimant's FAP and MA cases. Further, the Department shall provide Claimant with retroactive and/or supplemental FAP and MA benefits provided that Claimant is otherwise eligible and entitled to receive such benefits under policy.

IT IS SO ORDERED.

/s/ _____
C. Adam Purnell
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: February 15, 2013

Date Mailed: February 19, 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. (60 days for FAP cases)

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.

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

CAP/cr

cc:

