

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

IN THE MATTER OF:



Reg. No.: 201327461
Issue No.: 1005, 3055
Case No.: [REDACTED]
Hearing Date: March 5, 2013
County: Macomb 20

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 March 5, 2013, from Lansing, Michigan. Claimant personally appeared and provided testimony. Participants on behalf of Department of Human Services (Department) included [REDACTED] (Family Independence Specialist).

ISSUE

Due to a failure to comply with the verification requirements, did the Department properly deny Claimant's application for Family Independence Program (FIP) and Food Assistance Program (FAP)?

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 applied for FIP and FAP.
2. Claimant was provided with a Verification Checklist (DHS-3503).
3. Claimant was required to submit requested verification by December 20, 2012.
4. On January 1, 2013, the Department denied Claimant's application for FIP for failure to submit verification in a timely manner and denied her application for FAP for non-cooperation with the Office of Child Support.
5. On January 24, 2013, the Department sent notice of the denial of Claimant's application.
6. On February 2, 2013, Claimant filed a hearing request, protesting the denial.

CONCLUSIONS OF LAW

Department policies are found 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 1997 AACRS R 400.3101-3131. 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 1997 AACRS R 400.3001-3015

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.

When OCS, FOC or a prosecuting attorney determines a client is in cooperation or noncooperation the determination is entered in the Department's computer system known as "Bridges" via a systems interface. BEM 255. When the client is in noncooperation, Bridges will generate a notice closing the affected program(s) or reduce the client benefit amount in response to the determination. BEM 255. A copy of the details regarding the cooperation or noncooperation can be requested by contacting the primary worker noted in the Child Support (CS) icon in Bridges. 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.

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.

Where a client claims good cause, both the department worker and the client must sign the DHS-2168. BEM 255. The client must complete Section 2 of DHS-2168 specifying the type of good cause and the individual(s) affected. BEM 255. The client should be provided a copy of the completed DHS-2168. 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.

At application, client has 10 days to cooperate with the Office of Child Support. BEM 255. Bridges informs the client to contact the Office of Child Support in the verification check list (VCL). BEM 255. The disqualification is imposed if client fails to cooperate on or before the VCL due date when all of the following are true: (1) there is a begin date of non-cooperation in the absent parent logical unit of work; (2) there is not a subsequent comply date; (3) support/paternity action is still a factor in the child's eligibility; (4) good cause has not been granted nor is a claim pending. BEM 255.

Failure to cooperate without good cause results in disqualification of the individual who failed to cooperate. BEM 255. The individual and their needs are removed from the CDC EDG for a minimum of one month. BEM 255.

Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements. BAM 130. Verification is usually required upon application or redetermination and for a reported change affecting eligibility or benefit level. BAM 130. Verifications are considered timely if received by the date they are due. BAM 130.

For FIP and FAP, the department must allow a client 10 calendar days (or other time limit specified in policy) to provide the requested verification. BAM 130. Should the client indicate a refusal to provide a verification or, conversely, if the time period given

has elapsed and the client has not made a reasonable effort to provide it, the department may send the client a negative action notice. BAM 130. The department worker must tell the client what verification is required, how to obtain it, and the due date. BAM 130.

For FAP only, if the client contacts the department prior to the due date requesting an extension or assistance in obtaining verifications, the department must assist them with the verifications but not grant an extension. BAM 130. The department worker must explain to the client they will not be given an extension and their case will be denied once the VCL due date is passed. BAM 130. Also, the department worker shall explain their eligibility will be determined based on their compliance date if they return required verifications. BAM 130. The department must re-register the application if the client complies within 60 days of the application date. See BAM 115 & BAM 130.

For all programs, the department must, before determining eligibility, give the client a reasonable opportunity to resolve any discrepancy between his statements and information from another source. BAM 130.

To verify information, the department uses documents, collateral contacts or home calls to verify information. BAM 130. A "document" is a written form of verification. BAM 130. It may include a photocopy, facsimile or email copy if the source is identifiable. BAM 130. A "collateral contact" is a direct contact with a person, organization or agency to verify information from the client. BAM 130. It might be necessary when documentation is not available or when available evidence needs clarification. BAM 130. The client must name suitable collateral contacts when requested. BAM 130. The department worker may assist the client to designate them. BAM 130. The department worker is responsible for obtaining the verification. BAM 130.

Permanent documents must be obtained only once, unless they are found to be missing from the case record. Examples: birth certificate, passports, divorce papers, death notice. Copies of these documents should remain in the case record. BAM 130. Nonpermanent documents must be current. Examples: driver's license, pay stub, rent receipt, utility bill, DHS-49. BAM 130.

Here, the Department denied Claimant's application for FIP based on failure to provide verifications, but the FAP application was denied for noncooperation with the Office of Child Support (OCS). Beyond a Bridges print-out concluding that Claimant was in non-cooperation status, the Department did not provide any objective evidence that Claimant was in non-cooperation with OCS. The Department failed to indicate the reasons for the non-cooperation. In addition, the Department failed to indicate whether a DHS-2168 was forwarded to Claimant. BEM 255, which is referenced above, requires the Department forward to Claimant a Claim of Good Cause - Child Support Form (DHS-2168), at application, before adding a member and when a client claims good cause. The Department only noted that Claimant requested the Department change the name of the father. But the Department did not call any witnesses from OCS or anyone who had personal knowledge regarding Claimant's child support obligations. There was no evidence that Claimant was informed that she could show good cause for noncompliance or whether the Department made a good cause determination at all.

Due to the lack of evidence, this Administrative Law Judge is unable to determine whether the Department's denial of Claimant's FAP application for non-cooperation with child support was warranted by policy.

The Department denied Claimant's FIP application due to failure to provide verifications. The Department requested Claimant provide verifications regarding home rent and residential address on or before December 20, 2012. Claimant testified that she dropped off verifications regarding rent and address to the local DHS office before the due date. The record was held open so the Department to provide a copy of the drop-off/sign-in log. According to the drop-off/sign-in log, Claimant dropped off documents on December 21, 2012. This was late as the requested items were due on December 20, 2012. Here, the Department properly denied Claimant's FIP eligibility due to failure to timely and properly provide requested verifications.

Based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, the Administrative Law Judge concludes that the Department acted properly with regard to FIP but did not provide enough evidence for the ALJ to determine whether it acted properly with regard to the FAP application.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, finds that the Department is **AFFIRMED-IN-PART** and **REVERSED-IN-PART**. The Department did act properly when it denied Claimant's application for FIP because she failed to timely provide requested verifications. But the Department did not provide enough information to meet its burden of proof regarding the denial of the FAP application based on noncooperation with child support.

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

- Re-process and re-register Claimant's application for FAP.
- The Department shall then determine whether Claimant has good cause under BEM 255 for purposes of noncooperation with child support, including but not limited to mailing Claimant a Claim of Good Cause - Child Support Form (DHS-2168).

IT IS SO ORDERED.

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

Date Signed: March 8, 2013
Date Mailed: March 11, 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.

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