

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201335204
Issue No: 2006, 3008
Case No: [REDACTED]
Hearing Date: April 17, 2013
County: Washtenaw County DHS #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 April 17, 2013 from Lansing, Michigan. Claimant personally appeared and provided testimony. Participants on behalf of Department of Human Services (Department) included [REDACTED] (Assistance Payments Worker) and [REDACTED] (Family Independence Manager).

ISSUE

Did the Department properly sanction and close Claimant's Food Assistance Program (FAP) and Medical Assistance (MA) benefits due to child support noncooperation?

FINDINGS OF FACT

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

1. Claimant was active for FAP and MA benefits.
2. On or about March 7, 2013, the Department closed Claimant's FAP and/or MA benefits purportedly due to noncooperation with child support.¹
3. On March 13, 2012, the Department received Claimant's request for hearing.

CONCLUSIONS OF LAW

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

¹ The Department did not include the Notice of Case Action (DHS-1605) in the hearing packet.

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. Departmental policy provides 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 (TOA). 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:

- 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.
- The right to a hearing. BEM 255.

Good cause will be granted only when requiring cooperation/support action is against the child's best interests and there is a specific good cause reason. 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:

- Specify the reason for good cause.
- Specify the individuals covered by it.
- Be supported by written evidence or documented as credible. BEM 255.

Generally speaking, the department should 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.

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. The department may exceed the 45-day limit **only if** all of the following apply:

- The client was already granted an additional 25-day extension to the original 20-day limit.
- More information is needed that **cannot** be obtained within the 45-day limit.
- Supervisory approval is needed.
One of three findings is possible when making a determination:
- Approved - Continue with Child Support Action. BEM 255.

Support Specialists work for the DHS Office of Child Support as the liaison between DHS and local officials by:

- Accepting referrals/applications for child support services on behalf of public assistance recipients, as well as from the general public.
- Obtaining absent parent information from clients.
- Reviewing and offering comment on good cause claims.

- Notifying you of clients' cooperation and/or non-cooperation.
- Referring appropriate cases to the local prosecutor or the FOC. BEM 255.

Cooperation is required in all phases of the process to establish paternity and obtain support which includes **all** of the following:

- Contacting the support specialist 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 (including but not limited to testifying at hearings or obtaining blood tests). BEM 255.

The department, through its Bridges computer system, applies the support disqualification when a begin date of noncooperation is entered and there is no pending or approved good cause. BEM 255. The disqualification is not imposed if any of the following occur on or before the timely hearing request date; see BAM 600:

- OCS records the comply date.
- The case closes for another reason.
- The non-cooperative client leaves the group.
- Support/paternity action is no longer a factor in the child's eligibility (for example, the child leaves the group).
- Client cooperates with the requirement to return assigned support payments to DHS and the support is certified.
- Client requests administrative hearing. 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:

- 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; BEM 255.

Failure to cooperate without good cause results in disqualification of the individual who failed to cooperate. BEM 255. 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 255. Bridges will end the non-cooperation record if any of the following exist:

- OCS records the comply date.
- Support/paternity action is no longer a factor in the client's eligibility (for example child leaves the group).
- For FIP only, the client cooperates with the requirement to return assigned support payments, or an over issuance is established and the support is certified.
- For FIP and FAP only, a one month disqualification is served when conditions (mentioned above) to end the disqualification are not met prior to the negative action effective date. BEM 255.

A disqualified member under CDC is returned to the eligible group the month after cooperation or after serving the one month disqualification, whichever is later. BEM 255.

Here, the Department initially failed to prepare a proper hearing packet in this matter. The Administrative Law Judge permitted the Department to supplement its exhibits which included several copies of correspondence from OCS to Claimant from November, 2012 through March, 2013. The first letter is a First Customer Contact Letter dated November 17, 2012 which requests that Claimant contact her child support specialist no later than Wednesday, December 12, 2012. The record contains a second letter dated November 28, 2012 which asks Claimant provide her OCS specialist with the following information from R.W.'s absent parent: name, date of birth, social security number, current or last address, current or last employer and to please complete fully and return the enclosed fact sheet. On December 21, 2012, the OCS mailed Claimant a Final Customer Contact Letter which again requested Claimant provide her OCS specialist with information about the absent parent including: full legal name, date of birth, social security number, last known address/employer or physical description (height, weight, hair/eye color, race) no later than January 8, 2013. On January 16, 2013, the OCS issued Claimant a Noncooperation Notice because she purportedly failed to respond to the two letters by 12/12/12 and 1/8/13.

Claimant testified that she called her caseworker at OCS in January, 2013 and provided her with the following information regarding R.W.'s absent father: (1) name: [REDACTED] (2) address: [REDACTED];" (3) description: "5'9" tall, 195 lbs. with [REDACTED] tattooed on his neck and tattoos on his arms." According to the Department representatives who testified during the hearing, the OCS did not believe Claimant was being cooperative despite providing the above information.

Testimony and other evidence must be weighed and considered according to its reasonableness. *Gardiner v Courtright*, 165 Mich 54, 62; 130 NW 322 (1911); *Dep't of Community Health v Risch*, 274 Mich App 365, 372; 733 NW2d 403 (2007). The weight and credibility of this evidence is generally for the fact-finder to determine. *Dep't of Community Health*, 274 Mich App at 372; *People v Terry*, 224 Mich App 447, 452; 569 NW2d 641 (1997). Moreover, it is for the fact-finder to gauge the demeanor and veracity of the witnesses who appear before him, as best he is able. See, e.g., *Caldwell v Fox*, 394 Mich 401, 407; 231 NW2d 46 (1975); *Zeeland Farm Services, Inc v JBL Enterprises, Inc*, 219 Mich App 190, 195; 555 NW2d 733 (1996).

This Administrative Law Judge finds that there is no dispute regarding Claimant's testimony concerning the fact that she called her OCS caseworker and provided the above identifying information about the absent father. Here, the Department did not provide the OCS caseworker who had personal knowledge of the case as a witness. There is no credible testimony for this Administrative Law Judge to find that Claimant did not, in fact, provide this information to the OCS before January 8, 2013. But even if there were such evidence, the Department has failed to provide the proper documentation in the record regarding good cause. According to BEM 255 cited above, the department worker is responsible for determining if good cause exists. Department policies require its 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). BEM 255.

This Administrative Law Judge finds that the Department did not meet its burden of proof to show that Claimant was noncompliant with OCS. There is insufficient evidence in this record to establish that the information provided by Claimant was uncooperative. Claimant provided credible testimony that the information she provided was in good faith and was as accurate as possible at the time. Alternatively, the Department should have provided Claimant with a reasonable opportunity to claim good cause.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department improperly sanctioned and closed Claimant's FAP and MA benefits due to child support noncooperation.

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

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

- The department shall initiate a redetermination of Claimant's FAP and MA benefits back to the date of closure.
- The department shall initiate a redetermination as to whether the information provided by Claimant complies with her child support obligations. If the Department later determines that Claimant is in non-cooperation status, the Department shall follow policy by communicating to Claimant her right to show good cause.
- The department shall, provided that Claimant is otherwise eligible, issue any retroactive and/or supplemental FAP and MA benefits that she is entitled to receive.

IT IS SO ORDERED.

/s/

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

Date Signed: April 19, 2013

Date Mailed: April 22, 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/aca

cc:

