

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201340761
Issue No.: 1005, 2006, 3008
Case No.: [REDACTED]
Hearing Date: May 14, 2013
County: Wayne (76)

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 May 14, 2013 from Lansing, Michigan. Claimant personally appeared and provided testimony. Participants on behalf of Department of Human Services (Department) included [REDACTED] (Eligibility Specialist) and [REDACTED] (Lead Specialist-Office of Child Support).

ISSUE

Did the Department properly close Claimant's Food Assistance Program (FAP), Family Independence Program (FIP) and Medical Assistance (MA) benefits due to noncooperation with child support/paternity obligations pursuant to BEM 255?

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 FAP, FIP and MA.
2. On March 24, 2012, the Department's Office of Child Support (OCS) mailed Claimant a First Customer Contact Letter which requested she provide the OCS with information about the non-custodial parent of her child [REDACTED]. The due date was October 2, 2012.
3. On October 10, 2012, the OCS mailed Claimant a Final Customer Contact Letter again requested she provide the OCS with information about the non-custodial parent of her child [REDACTED]. The second due date was November 19, 2012.

4. On November 28, 2012, the OCS mailed Claimant a Noncooperation Notice which indicated that she was considered noncooperative because she failed to respond to two contact letters dated March 24, 2012 and October 10, 2012.
5. On November 28, 2012, the Department mailed Claimant a Notice of Case Action (DHS-1605) which closed Claimant's FIP case and reduced Claimant's FAP due to failure to cooperate in establishing paternity or securing child support.
6. On January 8, 2013, the Department mailed Claimant a Notice of Case Action (DHS-1605) which continued Claimant's MA eligibility for the Low Income Families (LIF) program effective February 1, 2013.
7. Claimant requested a hearing on April 9, 2013 to challenge the FIP closure and FAP reduction. Claimant also sought a hearing concerning her MA case.

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.

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. 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. 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. Policy sets forth two types of good cause (1) cases in which establishing paternity/securing support would harm the child and (2) cases in which there is danger of physical or emotional harm to the child or client. BEM 255.

For cases in which establishing paternity/securing support would harm the child, cooperation/support action is **not** required in any of the following circumstances: (1) the child was conceived due to incest or forcible rape; (2) legal proceedings for the adoption of the child are pending before a court; (3) 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. BEM 255.

For cases where there is danger of physical or emotional harm to the child or client, BEM 255 indicates that physical or emotional harm may result if the client or child has been subject to or is in danger of: (1) physical acts that resulted in, or threatened to result in, physical injury; (2) sexual abuse; (3) sexual activity involving a dependent child; (4) being forced as the caretaker relative of a dependent child to engage in

nonconsensual sexual acts or activities; (5) threats of, or attempts at, physical or sexual abuse; (6) mental abuse; or (7) neglect or deprivation of medical care. 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.

Cooperation is required in all phases of the process to establish paternity and obtain support which includes all of the following: (1) contacting the support specialist when requested; (2) providing all known information about the absent parent; (3) appearing at the office of the prosecuting attorney when requested; (4) 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.

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.

Here, the issue concerns the paternity of Claimant's child, [REDACTED]. Claimant indicated that she called her OCS caseworker after the first letter, but she could not recall the date. The Department provided evidence that Claimant, for the first time, called OCS on January 8, 2013 in response to the contact letters. During this conversation, Claimant stated that she was "wild" and was hanging out with an older female in Atlanta. Claimant reported that she had sexual relations with a man named [REDACTED] in Atlanta and was unsure if that was his real name, but she did not have any other information regarding the putative father.

During the hearing, the OCS worker testified that an investigation revealed that the child's last name was "[REDACTED]" and that a "[REDACTED]" had used two different mailing addresses belonging to Claimant in the past. In response, Claimant stated that she named her child after her grandmother's boyfriend "[REDACTED]" and

that [REDACTED] was [REDACTED]'s nephew. Claimant, however, denied having sexual relations with [REDACTED] and she denied that [REDACTED] was [REDACTED]'s father.

This Administrative Law Judge does not find Claimant's version of events to be credible. She is not cooperating with OCS and has not shown that good cause exists. Claimant's explanation for why her child was named "[REDACTED]" coupled with the fact that [REDACTED] was linked to her address on two previous occasions does not add up. Claimant's story about a "[REDACTED]" from Atlanta also is not believable. This Administrative Law Judge believes that Claimant is not providing all known information about the absent parent.

Accordingly, the Department properly sanctioned Claimant's FIP case with closure and properly reduced Claimant's FAP case due to noncooperation with child support/paternity. The Department has shown that Claimant's MA-LIF benefits were not reduced or adversely affected in any way.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department properly sanctioned Claimant by closing her FIP case and by reducing her FAP benefits due to noncooperation with child support/paternity without good cause.

Accordingly, the Department's FIP and FAP determinations are **AFFIRMED**.

Claimant's request for hearing regarding MA is **DISMISSED**: the Department had not taken any action to suspend, reduce, discontinue or terminate Claimant's MA benefits. Accordingly, Claimant does not have a right to a hearing concerning MA and this Administrative Law Judge has no jurisdiction. See Michigan Administrative Code 400.903(1).

IT IS SO ORDERED.

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

Date Signed: May 17, 2013

Date Mailed: May 20, 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:

