

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-35062
Issue No.: 2006
Case No.: [REDACTED]
Hearing Date: June 17, 2013
County: Oakland (63-03)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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 June 17, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant; [REDACTED], Claimant's authorized hearing representative (AHR). Participants on behalf of the Department of Human Services (Department) included [REDACTED]

ISSUE

Did the Department properly deny Claimant's application close Claimant's case for:

- | | |
|--|---|
| <input type="checkbox"/> Family Independence Program (FIP)? | <input type="checkbox"/> Adult Medical Assistance (AMP)? |
| <input type="checkbox"/> Food Assistance Program (FAP)? | <input type="checkbox"/> State Disability Assistance (SDA)? |
| <input checked="" type="checkbox"/> Medical Assistance (MA)? | <input type="checkbox"/> Child Development and Care (CDC)? |

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 applied for benefits received benefits for:

- | | |
|--|---|
| <input type="checkbox"/> Family Independence Program (FIP). | <input type="checkbox"/> Adult Medical Assistance (AMP). |
| <input type="checkbox"/> Food Assistance Program (FAP). | <input type="checkbox"/> State Disability Assistance (SDA). |
| <input checked="" type="checkbox"/> Medical Assistance (MA). | <input type="checkbox"/> Child Development and Care (CDC). |

2. On December 11, 2009, the Department
 denied Claimant's application closed Claimant's case
due to noncooperation with child support.
3. On December 11, 2009, the Department sent
 Claimant Claimant's Authorized Representative (AR)
notice of the denial. closure.
4. On December 20, 2012, the Department sent Claimant's Authorized Representative
(AR) notice of the denial.
5. On March 6, 2013, Claimant's AHR filed a hearing request, protesting the
 denial of the application. closure of the 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 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.

Additionally, Claimant's AHR, as Claimant's AR, filed an MA application on August 27, 2009. On December 12, 2009, the Department sent Claimant an Application Eligibility Notice notifying her that the MA application was denied because she was in noncooperation with child support. A copy of the denial was faxed to the AHR on December 20, 2012, which resulted in the AHR's request for hearing filed on March 6, 2013.

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. BEM 255 (October 1, 2009), p. 1. In this case, the OCS testified that Claimant was first requested to provide information concerning her son's father in 2007 and she did not comply with her child support reporting obligations until March 16, 2012.

At the hearing, the AHR contended that the Department did not act in accordance with Department policy when it denied Claimant's MA application based on the child support sanction because (i) Claimant had contacted the OCS in 2007 to seek to establish good cause for her failure to comply with her child support reporting obligations and believed she was granted good cause and (ii) before denying her August 27, 2009, application on the basis of child support noncooperation, the Department was required to notify Claimant of the sanction to give her the opportunity to comply.

At the hearing, the OCS verified that, after it sent letters in May 2007 and June 2007 to Claimant seeking information concerning the father of her child, Claimant contacted OCS by telephone in September 2007 requesting a good cause exception to her child support reporting obligations. Claimant contended that she did not receive any further contact from OCS or the Department concerning her good cause explanation and assumed that it had been accepted. However, the OCS file included a letter dated September 4, 2007, addressed to Claimant advising her that she had the option of filing a claim of good cause for not pursuing child support actions and informing her that she had to contact her Department worker to file the good cause claim, including supporting documentation, in order for the Department to make a good cause determination. Furthermore, OCS sent Claimant a First Customer Contact Letter on May 12, 2009, and a Final Customer Contact Letter on July 25, 2009, notifying her that she was in noncompliance with her child support reporting obligations and requesting information concerning the father of the same child referenced in the 2007 letters. Although Claimant testified that she did not recall the 2009 letters from OCS, the letters were addressed to Claimant at the same address she verified on the record as her current address. Therefore, even if Claimant believed her 2007 conversation established her good cause exception to the child support reporting obligations, the letters from OCS in 2009, prior to Claimant's August 29, 2009, MA application, put Claimant on notice of the noncooperation issue.

The AHR also contends that the Department should have notified Claimant (and the AHR, as Claimant's AR) of the child support noncooperation sanction prior to denying Claimant's MA application. The AHR references the Department policy requiring that the Department notify a client in a verification checklist of the noncooperation at application and giving the client 10 days to cooperate with OCS before the child support disqualification is imposed. See BEM 255 (December 2011), p. 10. However, this 10-day provision was not included in Department policy until October 1, 2010. See BEM 255 (October 2010), p. 10; Bridges Policy Bulletin 2010-016. The policy prior to that time, and in particular the policy applicable at the time Claimant's August 27, 2009 MA application was filed, provided that a support disqualification is applied at application if (i) there is a notice of noncooperation in the case record or the client appears on the non-cooperation report; **and** (ii) there is **not** a subsequent notice that the noncooperating member has cooperated; **and** (iii) support/paternity action is still a factor in the child's eligibility; **and** (iv) good cause has not been granted nor is a claim pending. BEM 255 (January 2009), p. 10. Based on the evidence presented at the hearing, Claimant was in child support noncooperation at the time the August 27, 2009, application was filed and no claim of good cause was pending or granted. Thus, the Department acted in accordance with Department policy when it denied Claimant's MA application. See BEM 255, p. 11.

The AHR also noted that the Department has an obligation to notify a client at the application interview of the child support noncooperation and encourage the client to cooperate. BEM 255, p. 10. There was no evidence concerning whether Claimant was advised of the consequences of her noncooperation at her MA application. But on October 20, 2009, the Department sent Claimant and the AHR a Verification Checklist

(VCL) requesting certain documentation, including paternity acknowledgement and child support, by November 6, 2009, and the AHR did not present any evidence at hearing that it had provided any such requested information to the Department prior to the November 16, 2011, extended due date of the VCL.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department acted in accordance with Department policy when it denied Claimant's MA application.

Accordingly, the Department's MA decision is AFFIRMED.


Alice C. Elkin
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: June 24, 2013

Date Mailed: June 24, 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 affect 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

2013-35062/ACE

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

ACE/pf

cc:

