

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

IN THE MATTER OF:

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Reg. No.: 2013-55780
Issue No.: 2018; 3019; 6043
Case No.: ██████████
Hearing Date: July 29, 2013
County: Wayne (35)

ADMINISTRATIVE LAW JUDGE: Eric Feldman

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 three-way telephone hearing was held on July 29, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department or DHS) included ██████████ ██████████ Family Independence Specialist. Also, ██████████ Lead Child Support Specialist, was present at the hearing from the Office of Child Support (OCS).

ISSUES

Did the Department properly disqualify Claimant from her Food Assistance Program (FAP) benefits effective May 1, 2013, ongoing, due to her failure to establish paternity and/or obtain child support?

Did the Department properly deny and/or close Claimant's Medical Assistance (MA) benefits effective November 1, 2012, ongoing, due to her failure to establish paternity and/or obtain child support?

Did the Department properly deny Claimant's Child Development and Care (CDC) application effective April 7, 2013, ongoing, due to her failure to establish paternity and/or obtain child support?

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 an ongoing recipient of FAP and MA benefits. See Exhibit 2.

2. On March 25, 2010, Claimant provided insufficient information about the absent parent to the OCS and Claimant was given an extension to provide the absent parent information.
3. On April 14, 2010, Claimant contacted the OCS and did not provide the OCS with any updated information regarding the absent parent.
4. On April 14, 2010, Claimant was placed into non-cooperation with the OCS due to her failure to establish paternity.
5. In July 2010, Claimant did not receive any active DHS benefit assistance.
6. In October 2010, the OCS had computer system upgrades and any clients who did not have active DHS benefit assistance were placed back into cooperation status with the OCS.
7. Between October 2010 and October 20, 2011, the OCS sent Claimant cooperation letters regarding the absent parent, which Claimant did not respond to.
8. On October 20, 2011, Claimant was placed back into non-cooperation status with the OCS due to Claimant's failure to respond to the cooperation letters.
9. On April 17, 2013, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits were decreased to \$200 effective May 1, 2013, ongoing, due to Claimant's non-cooperation status with the OCS. Exhibit 2.
10. On April 17, 2013, the Notice of Case Action also notified Claimant that her MA benefits were denied and/or closed effective November 1, 2012, ongoing, due to Claimant's non-cooperation status with the OCS. Exhibit 2.
11. On April 18 2013, Claimant applied for CDC benefits.
12. On May 30, 2013, the Department sent Claimant a Notice of Case Action notifying that again her MA benefits were denied and/or closed effective November 1, 2012, ongoing, due to Claimant's non-cooperation status with the OCS. Exhibit 1.
13. On May 30, 2013, the Notice of Case Action also notified Claimant that her CDC application was denied effective April 7, 2013, ongoing, due to Claimant's non-cooperation status with the OCS. Exhibit 1.
14. Between October 2010 and May 30, 2013, Claimant did not contact the OCS.
15. On May 30, 2013, Claimant contacted the OCS regarding the absent parent.

16. On June 17, 2013, Claimant filed a hearing request, protesting her FAP, CDC, and MA benefits. Exhibit 1.
17. On July 10, 2013, Claimant contacted the OCS and did not provide the OCS with any updated information regarding the absent parent.

CONCLUSIONS OF LAW

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

Preliminary facts

On March 25, 2010, Claimant provided insufficient information about the absent parent to the OCS and Claimant was given an extension to provide the absent parent information. On April 14, 2010, Claimant contacted the OCS and did not provide the OCS with any updated information regarding the absent parent. On April 14, 2010, Claimant was placed into non-cooperation with the OCS due to her failure to establish paternity. In July 2010, Claimant did not receive any active DHS benefit assistance. In October 2010, the OCS had computer system upgrades and any clients who did not have active DHS benefit assistance were placed back into cooperation status with the OCS.

Additionally, between October 2010 and October 20, 2011, the OCS sent Claimant cooperation letters regarding the absent parent, which Claimant did not respond to. On October 20, 2011, Claimant was placed back into non-cooperation status with the OCS due to Claimant's failure to respond to the cooperation letters.

FAP benefits

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.

In this case, Claimant was an ongoing recipient of FAP benefits. On April 17, 2013, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits were decreased to \$200 effective May 1, 2013, ongoing, due to Claimant's non-cooperation status with the OCS. Exhibit 2.

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 (December 2011), p. 1. Failure to cooperate without good cause results in disqualification. BEM 255, p. 1. Dis-

qualification includes member removal, as well as denial or closure of program benefits, depending on the type of assistance (TOA). BEM 255, p. 1.

For FAP cases, failure to cooperate without good cause results in disqualification of the individual who failed to cooperate. BEM 255, p. 11. The individual and his/her needs are removed from the FAP EDG for a minimum of one month. BEM 255, p. 11. The remaining eligible group members will receive benefits. BEM 255, p. 11.

At the hearing, the OCS caseworker testified that between October 2010 and May 30, 2013, Claimant did not contact the OCS. However, on May 30, 2013, the Department testified that Claimant contacted it on that date regarding the absent parent. The OCS caseworker testified that Claimant stated that she was an exotic dancer and was at the absent parent's home at the time of conception. Claimant provided the same date of birth and residential address as in previous contacts with OCS as well as a slightly different absent parent name. The Department testified, though, the residence never existed. Claimant testified that she provided all of the information that she was able to give.

Based on the foregoing information and evidence, the Department properly disqualified Claimant from her FAP benefits effective May 1, 2013, ongoing. See BEM 255, pp. 7-8. The Department's testimony indicates that Claimant kept failing to provide the necessary information regarding the absent parent. The OCS caseworker credibly testified that the Claimant did not contact the OCS between October 2010 and May 30, 2013 when the cooperation letters were sent to her. Based on Claimant being aware of her non-cooperation since March 25, 2010, Claimant failed to provide the necessary information regarding the absent parent. Moreover, Claimant kept providing the same absent parent address, of which the Department credibly testified did not exist.

CDC benefits

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.

On April 18 2013, Claimant applied for CDC benefits. On May 30, 2013, the Department sent Claimant a Notice of Case Action notifying her that her CDC application was denied effective April 7, 2013, ongoing, due to Claimant's non-cooperation status with the OCS. Exhibit 1.

For CDC applications, the client has 10 days to cooperate with the OCS. BEM 255, p. 10. The Department informs the client to contact the OCS in the verification check list (VCL). BEM 255, p. 10. 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; and good cause has not been granted nor is a claim pending. BEM 255, p. 10.

At the hearing, the Department did not present any testimony or evidence that a VCL was sent to Claimant to contact the OCS in regards to her CDC application. BEM 255, p. 10. Claimant applied for CDC benefits based on the Notice of Case Actions submitted by the Department. See Exhibit 1 and 2. Thus, a VCL should have been sent at the time of the applications by the Department for her to contact the OCS. BEM 255, p. 10. Thus, the Department improperly denied Claimant's CDC application effective April 7, 2013, ongoing.

MA benefits

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.

On April 17, 2013, the Notice of Case Action also notified Claimant that her MA benefits were denied and/or closed effective November 1, 2012, ongoing, due to Claimant's non-cooperation status with the OCS. Exhibit 2. On May 30, 2013, the Department sent Claimant a Notice of Case Action notifying her that again her MA benefits were denied and/or closed effective November 1, 2012, ongoing, due to Claimant's non-cooperation status with the OCS. Exhibit 1.

For MA cases, failure to cooperate without good cause results in member disqualification. BEM 255, p. 11. The adult member who fails to cooperate is not eligible for MA when both of the following are true: the child for whom support/paternity action is required receives MA and the individual and child live together. BEM 255, p. 11. Also, the child's MA eligibility is not affected by the adult member's disqualification. BEM 255, p. 11. The adult member's MA must have an ex-parte review before closure because of a failure to cooperate. BEM 255, p. 11.

Also, a negative action is a DHS action to deny an application or to reduce, suspend or terminate a benefit. BAM 220 (November 2012), p. 1. Timely notice is given for a negative action unless policy specifies adequate notice or no notice. BAM 220, p. 3. A timely notice is mailed at least 11 days before the intended negative action takes effect. BAM 220, pp. 3-4. The action is pended to provide the client a chance to react to the proposed action. BAM 220, p. 4.

A review of the April 17, 2013 and May 30, 2013 Notices of Case Action indicate that the Department failed to provide timely notices regarding the denial and closure of Claimant's MA benefits effective November 1, 2012, ongoing. The Department has to provide timely notice at least 11 days before the intended negative action and this clearly does not take place as both Notices of Case Action reference November 2012

benefits. BAM 220, pp. 1-4. Thus, the Department improperly denied and/or closed Claimant's MA benefits effective November 1, 2012 ongoing.

In summary, the Department (i) properly disqualified Claimant's from her FAP benefits effective May 1, 2013, ongoing; (ii) improperly denied Claimant's CDC application effective April 7, 2013, ongoing; and (iii) improperly denied and/or closed Claimant's MA benefits effective November 1, 2012 ongoing.

DECISION AND ORDER

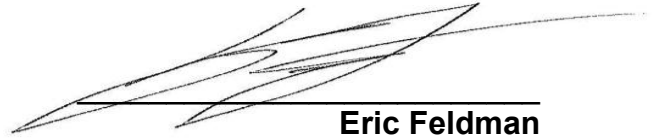
The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department (i) properly disqualified Claimant's from her FAP benefits effective May 1, 2013, ongoing; (ii) improperly denied Claimant's CDC application effective April 7, 2013, ongoing; and (iii) improperly denied and/or closed Claimant's MA benefits effective November 1, 2012 ongoing.

Accordingly, the Department's MA and CDC decision is REVERSED and the Department's FAP decision is AFFIRMED for the reasons stated above and on the record.

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

1. Remove Claimant's disqualification for her CDC and MA benefits;
2. Reregister Claimant's CDC application, effective April 2013;
3. Begin reprocessing Claimant's CDC application in accordance with Department policy;
4. Issue supplements to Claimant for any CDC benefits she was eligible to receive but did not from April 7, 2013, ongoing;
5. Re-initiate determination of Claimant's MA eligibility as of November 1, 2012, ongoing;
6. Issue supplements to Claimant for any MA benefits she was eligible to receive but did not from November 1, 2012, ongoing; and

7. Notify Claimant in writing of its CDC and MA decision in accordance with Department policy.



Eric Feldman
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: August 6, 2013

Date Mailed: August 6, 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,
 - 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

EJF/cl

cc: [REDACTED]
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