

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

IN THE MATTER OF:

██████████
██████████
████████████████████

Reg. No.: 2013-56178
Issue No.: 2018; 3015
Case No.: ██████████
Hearing Date: August 7, 2013
County: Wayne (55)

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 August 7, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant, and ██████████. Participants on behalf of the Department of Human Services (Department) included ██████████, Assistant Payment Worker. Also, ██████████ Lead Child Support Specialist, was present from the Office of Child Support (OCS).

ISSUES

Did the Department properly process Claimant's Medical Assistance (MA) eligibility as of July 1, 2013, ongoing?

Did the Department properly process Claimant's Food Assistance Program (FAP) eligibility as of July 1, 2013, ongoing?

Did the Department properly disqualify Claimant from her FAP and MA benefits 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 MA benefits. See Exhibit 1.

2. Claimant's FAP group size was one and receiving \$200 in FAP benefit payments. See Exhibit 1.
3. On November 23, 2011, the OCS sent Claimant a contact letter regarding the absent parent.
4. Claimant did not respond to the November 23, 2011 contact letter.
5. On May 28, 2012, the OCS sent Claimant a second contact letter regarding the absent parent.
6. Claimant did not respond to the May 28, 2012 contact letter.
7. On August 28, 2012, Claimant was in non-cooperation status with the OCS.
8. On August 29, 2012, the OCS sent Claimant a non-cooperation letter due to Claimant's failure to respond to the contact letters.
9. On May 14, 2013, the Department sent Claimant a Redetermination (DHS-1010), which was due back by June 10, 2013. Exhibit 1.
10. On June 2, 2013, Claimant submitted the redetermination. Exhibit 1.
11. On June 17, 2013, the Department sent Claimant a Notice of Case Action notifying her that her MA benefits would close effective July 1, 2013, ongoing, due to her failure to submit the redetermination.
12. Effective June 30, 2013, Claimant's FAP benefits closed due to her failure to submit the redetermination.
13. In June 2013, the Department closed Claimant's MA and FAP benefits in error and restored both benefits programs because Claimant did submit a completed redetermination on June 2, 2013.
14. On June 27, 2013, Claimant filed a hearing request, protesting her MA and FAP benefits. Exhibit 1.
15. As of today's hearing, the OCS backdated Claimant's cooperation date and she was in compliance with the OCS as of August 28, 2012.

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 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.

Preliminary matters

As a preliminary matter, Claimant was an ongoing recipient of MA benefits. See Exhibit 1. Claimant's FAP group size was one and receiving \$200 in FAP benefit payments. See Exhibit 1. On May 14, 2013, the Department sent Claimant a Redetermination (DHS-1010), which was due back by June 10, 2013. Exhibit 1. On June 2, 2013, Claimant submitted the redetermination. Exhibit 1. On June 17, 2013, the Department sent Claimant a Notice of Case Action notifying her that her MA benefits would close effective July 1, 2013, ongoing, due to her failure to submit the redetermination. Effective June 30, 2013, Claimant's FAP benefits closed due to her failure to submit the redetermination. In June 2013, the Department closed Claimant's MA and FAP benefits in error and restored both benefits programs because Claimant did submit a completed redetermination on June 2, 2013.

However, Claimant testified that she is seeking FAP benefits reflecting a group size of two for the benefit period of July 1, 2013, ongoing. Moreover, Claimant testified that she is also seeking MA eligibility for the benefit period of July 1, 2013, ongoing. It was discovered during the hearing that it appears that Claimant had a non-cooperation with the OCS that did not allow her to be MA and FAP eligible. The analysis below will address these issues.

Non-cooperation with the OCS

The custodial parent 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.

For FAP and MA applications, 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.

Also 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.

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. 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.

In this case, on November 23, 2011, the OCS sent Claimant a contact letter regarding the absent parent. Claimant did not respond to the November 23, 2011 contact letter. On May 28, 2012, the OCS sent Claimant a second contact letter regarding the absent parent. Claimant did not respond to the May 28, 2012 contact letter. On August 28, 2012, Claimant was in non-cooperation status with the OCS. On August 29, 2012, the OCS sent Claimant a non-cooperation letter due to Claimant's failure to respond to the contact letters. As of today's hearing, the OCS testified that she backdated Claimant's cooperation date and Claimant was in compliance with the OCS as of August 28, 2012.

Based on the foregoing information and evidence, the Department improperly disqualified Claimant's FAP and MA eligibility as of July 1, 2013, ongoing. The OCS caseworker credibly testified that it backdated Claimant's non-compliance date and she testified that Claimant was in compliance with the OCS as of August 28, 2012. Claimant testified that she is seeking FAP and MA benefits for July 1, 2013, ongoing. Thus, the Department must determine if Claimant is FAP and MA eligible as of July 1, 2013, ongoing, due to Claimant being in cooperation as of this benefit period.


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 improperly disqualified Claimant's FAP and MA eligibility as of July 1, 2013, ongoing.

Accordingly, the Department's AMP FIP FAP MA SDA CDC decision is AFFIRMED REVERSED for the reasons stated 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. Begin removing Claimant's non-cooperation status with the Office of Child Support, if any;
2. Initiate determination of Claimant's FAP and MA eligibility for July 1, 2013, ongoing, in light of Claimant being in compliance with the Office of Child Support as of this benefit period;
3. Begin recalculating the FAP and MA budget for July 1, 2013, ongoing, in accordance with Department policy;
4. Begin issuing supplements to Claimant for any FAP and MA benefits she was eligible to receive but did not from July 1, 2013, ongoing; and
5. Begin notifying Claimant in writing of its FAP and MA decision in accordance with Department policy;



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

Date Signed: August 16, 2013

Date Mailed: August 16, 2013

NOTICE OF APPEAL: 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 or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

A Request for Rehearing or Reconsideration may be granted when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The Department, AHR or the claimant must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date the hearing decision is mailed.

The written request must be faxed to (517) 335-6088 and be labeled as follows:

Attention: MAHS Rehearing/Reconsideration Request

If submitted by mail, the written request must be addressed as follows:

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

EJF/cl

cc: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]