

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-64699
Issue No.: 1000, 2006, 3008
Case No.: [REDACTED]
Hearing Date: September 19, 2013
County: Wayne DHS (55)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 September 19, 2013, from Detroit, Michigan. Participants included the above-named claimant. Participants on behalf of Department of Human Services (DHS) included [REDACTED], Specialist, and [REDACTED], Office of Child Support Lead Specialist.

ISSUE

The first issue is whether Claimant timely requested a hearing to dispute a Family Independence Program (FIP) termination.

The second issue is whether DHS properly imposed a child support disqualification affecting Claimant's Medical Assistance (MA) and Food Assistance Program (FAP) benefit eligibility.

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 FIP, FAP and MA benefit recipient.
2. On [REDACTED]/13, DHS mailed Claimant a FIP benefit termination notice, effective [REDACTED]/2013, due to exceeding the limits to receive federally-issued FIP benefits.
3. On [REDACTED]/13, DHS mailed Claimant a First Contact Letter informing Claimant of a need to contact the Office of Child Support (OCS) for paternity information for her youngest daughter.

4. Claimant did not respond to the letter.
5. On [REDACTED]/13, DHS mailed Claimant a Second Contact Letter informing Claimant of a need to contact the Office of Child Support (OCS) for paternity information for her youngest daughter.
6. Claimant did not respond to the letter.
7. On [REDACTED]/13, DHS imposed a child support disqualification against Claimant.
8. On [REDACTED]/13, DHS initiated a reduction of Claimant's FAP eligibility, effective [REDACTED]/2013, due to a child support disqualification.
9. On [REDACTED]/13, DHS initiated termination of Claimant's Medicaid eligibility, effective [REDACTED]/2013, due to a child support disqualification.
10. On [REDACTED]/13, Claimant requested a hearing to dispute her FIP, FAP and MA eligibility.

CONCLUSIONS OF LAW

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. DHS regulations are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

Claimant requested a hearing, in part, to dispute a FIP benefit termination. It was not disputed that DHS mailed Claimant notice of a termination of FIP eligibility on [REDACTED]/13.

The client must receive a written notice of all case actions affecting eligibility or amount of benefits. BAM 600 (2/2013), p. 1. The client or authorized hearing representative has 90 calendar days from the date of the written notice of case action to request a hearing. *Id.*, p. 4.

Claimant requested a hearing to dispute the FIP termination on [REDACTED]/13. Claimant's hearing request was submitted approximately 150 days after DHS mailed notice of the case action. It is found that Claimant's hearing request disputing a FIP benefit termination from [REDACTED]/13 was untimely.

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. DHS regulations are found 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. DHS regulations are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

Claimant also requested a hearing to dispute adverse actions taken to her FAP and MA eligibility. It was not disputed that both actions occurred because DHS imposed a child support disqualification against Claimant.

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 (12/2011), p. 1. Failure to cooperate without good cause results in disqualification. *Id.* Disqualification includes member removal, as well as denial or closure of program benefits, depending on the type of assistance. *Id.* The support specialist (i.e. OCS) determines cooperation for required support actions. *Id.*, p. 8.

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

For MA benefits, failure to cooperate without good cause results in member disqualification. *Id.* The adult member who fails to cooperate is not eligible for MA when the child for whom support/paternity action is required receives MA and the individual and child live together. *Id.*

DHS provided testimony that DHS mailed Claimant two notices requesting paternity information for Claimant's youngest daughter. The letters were not presented, but the testifying OCS worker credibly stated that the letters were sent by the DHS database and contained Claimant's correct mailing address. DHS established that both notices were mailed to Claimant's correct mailing address.

The proper mailing and addressing of a letter creates a presumption of receipt. That presumption may be rebutted by evidence. *Stacey v Sankovich*, 19 Mich App 638 (1969); *Good v Detroit Automobile Inter-Insurance Exchange*, 67 Mich App 270 (1976).

Claimant presented only her testimony as evidence of not receiving the letters. Claimant conceded that she received a third letter mailed by DHS, a notice informing her that she was considered uncooperative in establishing paternity for her youngest daughter. It is possible, but not likely, that Claimant only received one of three notices mailed by DHS.

Based on the presented evidence, it is found that DHS mailed Claimant two notices informing Claimant of the requirement to cooperate in establishing paternity.

Claimant alleged that she called OCS shortly after [REDACTED]/13, the date that DHS mailed her a Notice of Non-Cooperation letter. Claimant testified that she left voicemail messages for her OCS worker. OCS denied receiving any calls from Claimant. Claimant's OCS specialist did not testify. The testifying OCS representative stated that Claimant's OCS specialist was known to be a detail-oriented person who reliably documents all incoming telephone calls. The OCS representative testified that Claimant's OCS specialist did not document any calls from Claimant until [REDACTED]/13.

Neither side presented compelling evidence concerning whether Claimant called OCS prior to [REDACTED]/2013. Claimant presented first-hand testimony, but no documentation (e.g. phone logs). DHS presented indirect documentary evidence but it would have been more persuasive had Claimant's OCS specialist testified.

Based on the presented evidence, it is more probable than not that Claimant failed to call OCS until [REDACTED]/13. What likely happened is that Claimant ignored three letters from OCS and two notices from DHS. Around [REDACTED]/13, Claimant likely realized that her benefit eligibility was impacted and then she requested a hearing and called OCS. Based on the presented evidence, it is found that Claimant was uncooperative with establishing child support and that DHS properly affected Claimant's FAP and MA eligibility.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that Claimant failed to timely request a hearing to dispute a FIP benefit termination, effective [REDACTED]/2013. Claimant's hearing request is PARTIALLY DISMISSED.

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly imposed a child support disqualification in reducing Claimant's FAP eligibility, effective [REDACTED]/2013, and terminating Claimant's Medicaid eligibility, effective [REDACTED]/2013. The actions taken by DHS are AFFIRMED.



Christian Gardocki
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 9/27/2013

Date Mailed: 9/27/2013

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

CG/hw

cc:

