

**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.: 2014-5108
Issue No.: 2000; 3019
Case No.: ██████████
Hearing Date: November 20, 2013
County: Wayne (98)

ADMINISTRATIVE LAW JUDGE: Eric Feldman

HEARING DECISION

Following Claimant's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, a four-way hearing was held on November 20, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department or DHS) included ██████████, Success Coach, and ██████████ Lead Child Support Specialist from the Office of Child Support (OCS).

ISSUES

Did the Department properly close Claimant's Medial Assistance (MA) benefits?

Did the Department properly close Claimant's Food Assistance Program (FAP) benefits effective October 1, 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 1.
2. On October 6, 2010, the OCS sent Claimant a first contact letter, in which the Claimant did not respond.
3. On March 16, 2011, the OCS sent Claimant a second contact letter, in which the Claimant did not respond.

4. On September 16, 2011, the OCS sent Claimant a non-cooperation letter due to her lack of response.
5. As of September 16, 2011, Claimant was and still is in non-cooperation with the OCS.
6. On November 14, 2012, Claimant contacts the Department stating she does not know the information about the absent father.
7. On September 14, 2013, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits closed effective October 1, 2013, ongoing. See Exhibit 1.
8. On September 27, 2013, Claimant filed a hearing request, protesting her FAP closure and MA closure. See Exhibit 1.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), Department of Human Services Reference Tables Manual (RFT), and Department of Human Services Emergency Relief Manual (ERM).

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food Stamp Act of 1977, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 271.1 to 285.5. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10 and Mich Admin Code, R 400.3001 to .3015.

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act, 42 USC 1396-1396w-5, and is implemented by 42 CFR 400.200 to 1008.59. The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10 and MCL 400.105.

FAP benefits

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 (July 2013), p. 1.

Failure to cooperate without good cause results in disqualification. BEM 255, p. 2. Disqualification includes member removal, as well as denial or closure of program benefits, depending on the type of assistance (TOA). BEM 255, p. 2.

Cooperation is a condition of eligibility. BEM 255, p. 9. Cooperation is required in all phases of the process to establish paternity and obtain support. BEM 255, p. 9. It includes all of the following:

- Contacting the support specialist when requested.
- Providing all known information about the absent parent.
- Appearing at the office of the prosecuting attorney when requested.
- Taking any actions needed to establish paternity and obtain child support (including but not limited to testifying at hearings or obtaining genetic tests).

BEM 255, p. 9.

For FAP cases, failure to cooperate without good cause results in disqualification of the individual who failed to cooperate. BEM 255, p. 14. The individual and his/her needs are removed from the FAP EDG for a minimum of one month. BEM 255, p. 14. The remaining eligible group members will receive benefits. BEM 255, p. 14.

In this case, Claimant was an ongoing recipient of FAP benefits. See Exhibit 1. On October 6, 2010, the OCS sent Claimant a first contact letter, in which the Claimant did not respond. On March 16, 2011, the OCS sent Claimant a second contact letter, in which the Claimant did not respond. On September 16, 2011, the OCS sent Claimant a non-cooperation letter due to her lack of response. As of September 16, 2011, Claimant was and still is in non-cooperation with the OCS. On November 14, 2012, the OCS caseworker testified that Claimant contacted the OCS stating that she does not know the information about the absent father. The OCS caseworker testified that Claimant stated she had four partners at that time and she could not provide the name. The OCS caseworker testified that Claimant was still in non-cooperation because it needed a name and date of birth to identify the father. Thus, on September 14, 2013, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits closed effective October 1, 2013, ongoing. See Exhibit 1. Moreover, the OCS caseworker stated that after the hearing request, it attempted to contact the Claimant on October 21 and 28, 2013, without any success.

At the hearing, Claimant agreed she spoke to the OCS in November 2012. Claimant testified that she does not know the absent father's name and/or date of birth regarding the child and still does not know the identifying information. Claimant testified that she provided all the information she was able to give.

Based on the foregoing information and evidence, the Department improperly closed Claimant's FAP benefits effective October 1, 2013, ongoing. Both parties agreed that Claimant contacted the OCS on November 14, 2012, regarding the absent father. BEM 255 states that cooperation is a condition of eligibility, which includes contacting the support specialist when requested and providing all known information about the absent parent. BEM 255, p. 9. Claimant was cooperating with the OCS because she was contacting the support specialist and provided all known information about the absent

parent. The OCS caseworker testified that the Department needed additional information; however, Claimant provided credible testimony that she does not have any additional information regarding the absent father. Claimant is unable to provide any additional information and the Department did not present any evidence that Claimant is withholding information about the absent parent. Claimant was cooperative in all phases of the process when she contacted the OCS on November 14, 2012. Thus, she was in cooperation as of November 14, 2012 because she contacted the specialist. BEM 255, p. 9. The Notice of Case Action was generated after her cooperation date and it is found that the closure should have not occurred. The Department is ordered to remove the disqualification and reinstate the FAP benefits.

It should be noted that the Notice of Case Action dated September 14, 2013, also stated that the FAP benefits closed for failure to comply with the verification requirements. However, the Department did not present any testimony or evidence regarding a failure to provide verification. Also, BEM 255 states that the remaining FAP eligible group members will receive benefits. BEM 255, p. 14. This is not present in this case. The Department testified that the entire FAP group benefits closed due to non-cooperation. However, it appears that only the Claimant should have been disqualified from the FAP group and the remaining FAP group members should have received benefits. BEM 255, p. 14. Nevertheless, as stated previously, Claimant is found to be in cooperation before the Notice of Case Action and the FAP benefits are reinstated effective October 1, 2013, ongoing.

MA benefits

Claimant also requested a hearing disputing her and her child's MA benefits closure. See Exhibit 1. Based on her testimony, it appeared that Claimant was seeking MA benefits for her and her child from June 2012, ongoing. Claimant testified that her MA benefits closed effective June 2012 and her child's benefits closed effective July 2012. However, Claimant also testified that her MA benefits closed June 2013. Claimant was provided conflicting testimony.

At the hearing, the Department presented a Notice of Case Action dated October 1, 2012, which notified Claimant of an Adult Medical Program (AMP) denial effective December 1, 2011 and April 1, 2012. See Exhibit 1. The Department also presented a Notice of Case Action dated March 7, 2012, which notified Claimant of an MA closure effective April 1, 2012. See Exhibit 1. Finally, the Department presented Claimant's Eligibility Summary which showed Claimant's MA benefits closed last in April 2012. See Exhibit 1.

Regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in Mich Admin Code, R 400.901 through R 400.951. Rule 400.903(1) provides as follows:

An opportunity for a hearing shall be granted to an applicant who requests a hearing because [a] claim for assistance is

denied or is not acted upon with reasonable promptness, and to any recipient who is aggrieved by a Department action resulting in suspension, reduction, discontinuance, or termination of assistance.

A request for hearing must be in writing and signed by the claimant, petitioner, or authorized representative. Rule 400.904(1). Moreover, the Department of Human Services Bridges Administrative Manual (BAM) 600 (July 2013), p. 5, provides in relevant part as follows:

The client or authorized hearing representative has *90 calendar days from the date of the written notice of case action to request a hearing*. The request must be received anywhere in DHS within the 90 days. [Emphasis added.]

In the present case, the Department presented Notice of Case Actions advising Claimant of its decision to deny and/or close MA benefits. See Exhibit 1. The Department's Notice of Case Actions were dated in March and October of 2012. Moreover, a review of the Eligibility Summary indicated Claimant's MA benefits closed last in April 2012. See Exhibit 1. However, Claimant did not file a request for hearing to contest the Department's actions until September 27, 2013. See Exhibit 1.

Based on the foregoing information and evidence, Claimant's MA hearing request is dismissed for lack of jurisdiction in accordance with Department policy. First, Claimant's hearing request was not timely filed within ninety days of the Notice of Case Actions the Department presented. See Exhibit 1. Second, a review of the Eligibility Summary indicated that Claimant's MA benefits closed last in April 2012. See Exhibit 1. Again, these closures and/or denials occurred after ninety days of Claimant's hearing request.

In summary, Claimant's MA hearing request was not timely filed within ninety days of the Notice of Case Action and is, therefore, **DISMISSED** for lack of jurisdiction. BAM 600, p. 5.

DECISION AND ORDER

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department (i) did not act in accordance with Department policy when it improperly closed Claimant's FAP benefits effective October 1, 2013, ongoing; and (ii) Claimant's MA hearing request is dismissed for lack of jurisdiction in accordance with Department policy.

Accordingly, the Department's FAP decision is REVERSED.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS

HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Remove Claimant's non-cooperation status with the Office of Child Support, if any;
2. Remove Claimant's FAP disqualification in accordance with Department policy, if any;
3. Reinstate Claimant's FAP case as of October 1, 2013, ongoing;
4. Begin recalculating the FAP budget for October 1, 2013, ongoing, in accordance with Department policy;
5. Issue supplements to Claimant for any FAP benefits she was eligible to receive but did not from October 1, 2013, ongoing; and
6. Notify Claimant in writing of its FAP decision in accordance with Department policy.

IT IS ALSO ORDERED that Claimant's MA hearing request is **DISMISSED** for lack of jurisdiction. BAM 600, p. 5.



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

Date Signed: November 26, 2013

Date Mailed: November 26, 2013

NOTICE OF APPEAL: 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.

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).

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]