

**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.: 2014-13998
Issue No(s): 2011; 3000
Case No.: ██████████
Hearing Date: December 18, 2013
County: Wayne (76)

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 telephone hearing was held on December 18, 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 Manager, and ██████████ Eligibility Specialist. The Office of Child Support (OCS) was not present for the hearing.

ISSUE

Did the Department properly close Claimant's Medical Assistance (MA) case 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. On June 26, 2013, Claimant was placed in non-cooperation status with the OCS. See Exhibit 1.
2. On June 27, 2013, the Department disqualified Claimant from her Food Assistance Program (FAP) benefits effective August 1, 2013, ongoing, due to her non-cooperation status with the OCS. Exhibit 1.
3. On October 3, 2013, the Department sent Claimant a Notice of Case Action informing her that she is ineligible for MA benefits effective November 1, 2013, ongoing, due to her non-cooperation status with the OCS. Exhibit 1.

4. On November 13, 2013, Claimant filed a hearing request, protesting her MA closure and FAP disqualification. 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.

Preliminary matters

First, the OCS was not present for the hearing.

Second, 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, on June 27, 2013, the Department disqualified Claimant from her FAP benefits effective August 1, 2013, ongoing, due to her non-cooperation status with the OCS. Exhibit 1.

However, Claimant did not file a request for hearing to contest the Department's action until November 13, 2013. See Exhibit 1. Claimant's FAP 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.

MA 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 (October 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 MA cases, failure to cooperate without good cause results in member disqualification. BEM 255, p. 13. 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. 13.

In this case, on June 26, 2013, Claimant was placed in non-cooperation status with the OCS. See Exhibit 1. Thus, on October 3, 2013, the Department sent Claimant a Notice of Case Action informing her that she is ineligible for MA benefits effective November 1, 2013, ongoing, due to her non-cooperation status with the OCS. Exhibit 1.

At the hearing, Claimant testified she has legal guardianship over the child. Claimant testified that she took the child in January 2013; however, she did not obtain legal guardianship until June 2013. In regards to the child's mother, Claimant testified that the mother's whereabouts are unknown. However, Claimant testified that she has provided the OCS all known information about the child's father. Claimant testified that she received the OCS first contact letter in February 2013, which inquired about the absent parents. In February 2013, Claimant testified that she contacted the OCS and left a voicemail for the OCS caseworker. Claimant testified that she provided the date of birth, name, address, and other information about the absent father. Claimant testified that the next response she received regarding the non-cooperation was the notice of her FAP disqualification in June 2013. Subsequent to the FAP disqualification, Claimant testified that she has attempted to contact the OCS regarding the absent parents; however, she has had no success.

It should be noted that even Claimant's local DHS office has attempted to assist Claimant by contacting the OCS. On November 21, 2013, the Department sent an e-mail to the OCS caseworker regarding the absent father's name, date of birth, and phone number. See Exhibit 1. On November 22, 2013, the OCS caseworker responded via e-mail stating that enough information was not provided. See Exhibit 1. The OCS caseworker stated that the Claimant had to provide additional information (i.e., complete an interview). See Exhibit 1.

Based on the foregoing information and evidence, the Department improperly closed Claimant's MA benefits effective November 1, 2013. Claimant credibly testified that she was attempting to contact the OCS in regards to providing information about the absent parents. 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 OCS caseworker and provided all known information about the absent parents. Moreover, the Department even attempted to assist the Claimant in providing the absent parent's information. See Exhibit 1. It is found that Claimant was cooperative in all phases of the process before the negative action date because she was contacting the OCS from February 2013, ongoing. Also, the OCS failed to be present for the hearing to rebut Claimant's testimony. The Department is ordered to remove Claimant's non-cooperation and reinstate her MA benefits effective November 1, 2013, ongoing.

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 did not act in accordance with Department policy when it improperly closed Claimant's MA benefits effective November 1, 2013, ongoing.

Accordingly, the Department's MA 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. Reinstate Claimant's MA benefits effective November 1, 2013, ongoing;
3. Begin recalculating the MA budget for November 1, 2013, ongoing, in accordance with Department policy;
4. Issue supplements to Claimant for any MA benefits she was eligible to receive but did not from November 1, 2013, ongoing; and
5. Notify Claimant in writing of its MA decision in accordance with Department policy.

IT IS ALSO ORDERED that Claimant's FAP 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: December 20, 2013

Date Mailed: December 20, 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]
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