

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

IN THE MATTER OF:



Reg. No.: 201334381
Issue No.: 6015
Case No.:
Hearing Date: June 12, 2013
County: Wayne County (#15)

ADMINISTRATIVE LAW JUDGE: MICHELLE HOWIE

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 conducted on Wednesday, June 12, 2013, from Detroit, Michigan. The Claimant appeared and testified. Participants on behalf of Department of Human Services (Department) included (Assistant Payment Worker) and (Lead Specialist-Office of Child Support (OCS)).

ISSUE

Whether the Department properly denied Claimant's application for Child Development Care (CDC) due to non-compliance with 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. In December 2012, the Department received Claimant's application for CDC benefits.
2. Effective August 14, 2012, the Office of Child Support ("OSC") had sanctioned the Claimant's case due to non-cooperation for Claimant's failure to respond to several contact letters.
3. On October 3, 2012, the Claimant contacted OCS and was interviewed by a specialist regarding the non-custodial parent of her second child.

4. The OCS specialist left Claimant's case in non-cooperation status.
5. As a result of the continuing sanction, on January 4, 2013, the Department denied Claimant's request for CDC benefits. (Exhibit 1)
6. On March 8, 2013, the Department received the Claimant's written hearing request disputing the Department action.

CONCLUSIONS OF LAW

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

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.

Parents have a responsibility to meet their children's needs by providing support and/or cooperating with the department including the Office of Child Support ("OCS"), the Friend of the Court, and the prosecuting attorney to establish paternity and/or obtain support from an absent parent. BEM 255 (December 2011), p.1. Cooperation is a condition of eligibility. BEM 255, 1. The head of household and the 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, p.10. Cooperation is a condition of eligibility. BEM 255. The Department is not required to restore or reopen benefits for a disqualified member until the client cooperates (as recorded on the child support non-cooperation record) or support/paternity action is no longer needed. BEM 255.

In this case, the evidence does not support a finding that Claimant failed to cooperate with child support. The Department has the burden of establishing by a preponderance of the evidence that it acted in accordance with policy in any action taken that negatively affects a client. On this record, the Department did not meet its burden. Claimant testified credibly that in October 2012 she provided the OCS with all the information she knows with regards to the father of her second child. She provided his name, last known address and birthdate. She has since made numerous calls to the OCS specialist to clarify what additional information is needed to have the sanction removed, but has not received a response. Her testimony was not refuted. The OCS specialist at hearing testified that she had no personal knowledge of the reason Claimant's sanction was not

removed. According to case notes the previous worker determined Claimant provided conflicting birthdates for the non-custodial parent and based on the amount of time Claimant has known him she should have more information. Claimant denied withholding any known information regarding the non-custodial parent. No evidence on record shows Claimant intentionally withheld information, or has additional information regarding the non-custodial parent. As such, the Department has not established by a preponderance of the evidence that Claimant failed to cooperate with child support.

Accordingly, the Department's action is not upheld.

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 did not establish that Claimant failed to cooperate with the Office of Child Support and as such was subject to the denial of the December 2012 CDC application.

Accordingly, the Department's FIP determination is hereby, **REVERSED** .

1. The Department shall reinstate the Claimant's December 2012 CDC application and process without the child support sanction in accordance with policy.
2. The Department shall notify the Claimant in writing of the CDC eligibility determination.



Michelle Howie
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 6/27/2013

Date Mailed: 6/27/2013

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 effect the substantial rights of the claimant:
 - the 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

MH/hw

cc:

