

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

IN THE MATTER OF:



Reg. No.: 2013-36922
Issue Nos.: 1025, 2006, 3008
Case No.: [REDACTED]
Hearing Date: April 22, 2013
County: Wayne (82-35)

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 telephone hearing was held on April 22, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED].

ISSUES

1. Did the Department properly deny Claimant's Family Independence Program (FIP) application due to her failure to establish paternity and/or obtain child support?
2. Did the Department properly disqualify Claimant from her Food Assistance Program (FAP) benefits due to her failure to establish paternity and/or obtain child support?
3. Did the Department properly deny Claimant's Medical Assistance (MA) application 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 July 5, 2012, Claimant was cooperative with the Office of Child Support (OCS); however, on that same date, Claimant was also found to be non-cooperative with OCS. Exhibit 2.

2. As of today's hearing, Claimant is in non-cooperation status with OCS.
3. Claimant was an ongoing recipient of FAP benefits.
4. On February 24, 2013, Claimant applied for FIP and MA benefits.
5. The Department sent Claimant a Notice of Case Action informing her that her FIP application was denied on March 1, 2013, due to her failure to establish paternity and/or obtain child support. Exhibit 1.
6. On an unspecified date, the Department disqualified Claimant from her FAP benefits effective April 1, 2013, ongoing, due to her failure to establish paternity and/or obtain child support.
7. On an unspecified date, the Department denied Claimant's February 24, 2013, MA application based on her failure to establish paternity and/or obtain child support.
8. On March 19, 2013, Claimant filed a hearing request, protesting the Department's actions.

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 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 1999 AC, R 400.3101 through Rule 400.3131. FIP replaced the Aid to Dependent Children (ADC) program effective October 1, 1996.

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 1999 AC, R 400.3001 through Rule 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.

The Adult Medical Program (AMP) is established by 42 USC 1315, and is administered by the Department pursuant to MCL 400.10, *et seq.*

The State Disability Assistance (SDA) program, which provides financial assistance for disabled persons, is established by 2004 PA 344. The Department of Human Services (formerly known as the Family Independence Agency) administers the SDA program pursuant to MCL 400.10, *et seq.*, and 2000 AACRS, R 400.3151 through Rule 400.3180.

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 1999 AC, R 400.5001 through Rule 400.5015.

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 FIP and MA applications, a 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 the 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. Additionally, for FIP cases, any individual required to cooperate who fails to cooperate without good cause causes FIP group ineligibility for a minimum of one month. BEM 255, p. 10. 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. 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.

In this case, Claimant was an ongoing recipient of FAP benefits, and Claimant also applied for FIP and MA benefits on February 24, 2013. The Department testified and presented evidence showing that Claimant was both non-cooperative and cooperative with OCS on July 5, 2012. Exhibit 2. However, the Department testified that Claimant has been in non-cooperation status with OCS as of today's hearing based on Claimant's failure to establish paternity and/or obtain child support. Therefore, Claimant's February

24, 2013, FIP and MA applications were denied due to her failure to establish paternity and/or obtain child support. Additionally, Department disqualified Claimant from her FAP benefits effective April 1, 2013, ongoing, due to her failure to establish paternity and/or obtain child support. Thus, Claimant filed a hearing request, protesting the Department's actions.

At the hearing, the Department testified that it did not know why both the non-cooperation and cooperation date were the same. Moreover, OCS was not present at the hearing to testify why Claimant is in non-cooperation status. The Department further testified that it attempted to contact OCS to resolve the non-cooperation status; however, the Department was unable to reach OCS. Claimant credibility testified that she contacted OCS in mid-February 2013 to attempt to resolve the non-cooperation. Claimant credibly testified that OCS requested the address of the father to establish cooperation. Claimant testified that she provided the address; however, she stated that OCS required an updated address and/or the father's Social Security Number. Claimant testified that she was unable to retrieve this information due to the father resisting to give such information.

Based on the foregoing information and evidence, the Department failed to satisfy its burden showing that it acted in accordance with Department policy when it denied Claimant's FIP and MA application and disqualified Claimant's from her FAP benefits. The Department was unable to explain why both the non-cooperation and cooperation date were the same. Moreover, the Department was not able to contact OCS to resolve the non-cooperation status or have OCS present at the hearing to explain why Claimant is in non-cooperation. Claimant credibly testified that she attempted to provide OCS with all information she was able to provide. Additionally, Claimant testified that she was unable to obtain the additional information necessary that OCS was requesting due to the refusal of the father. OCS was not present at the hearing to rebut Claimant's testimony nor able to explain why Claimant is in non-cooperation status.

Based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, the Administrative Law Judge concludes that the Department (i) improperly denied Claimant's FIP and MA application and (ii) improperly disqualified Claimant from her FAP benefits.


DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated above and on the record, finds that the Department did act properly. did not act properly.

Accordingly, the Department's AMP FIP FAP MA SDA CDC decision is AFFIRMED REVERSED for the reasons stated above and 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. Remove Claimant's non-cooperation status with the Office of Child Support;
2. Remove Claimant's disqualification for her FAP benefits and reinstate her benefits as of April 1, 2013;
3. Issue supplements to Claimant for any FAP benefits she was eligible to receive from April 1, 2013, ongoing;
4. Register Claimant's FIP and MA application, effective February 24, 2013;
5. Begin processing Claimant's FIP and MA application in accordance with Department policy;
6. Issue supplements to Claimant for any FIP and MA benefits she was eligible to receive from February 24, 2013, ongoing; and
7. Notify Claimant in writing of its decision in accordance with Department policy.



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

Date Signed: April 24, 2013

Date Mailed: April 24, 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,

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- 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

EJF/pf

cc:

