

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

IN THE MATTER OF:

██████████ Reg.
██████████ Issue
Hearing

No: 2013-44031
Case No: ██████████
No: 1003
Date: May 30, 2013
County: Genesee-02

ADMINISTRATIVE LAW JUDGE: Vicki L. Armstrong

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon Claimant's request for a hearing received on April 18, 2013. After due notice, a telephone hearing was held on May 30, 2013. Claimant personally appeared and provided testimony. PATH Case Manager ██████████ testified on behalf of the department.

ISSUE

Whether the department properly determined Claimant's Family Independence Program (FIP) should be closed and Claimant's Food Assistance Program (FAP) decreased, due to non-cooperation with the Office of Child Support?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

1. Claimant was receiving FIP and FAP at all times pertinent to this hearing. (Hearing Summary).
2. On April 5, 2013, the Child Support Non-Cooperation Details page in Bridges was updated reflecting a non-cooperation date of 4/5/13 for Claimant. (Ex. 4).
3. On April 8, 2013, the department mailed Claimant a Notice of Case Action informing her that her FIP program would be closed effective May 1, 2013, because she had failed to cooperate in establishing paternity or securing Child Support. (Ex. 5-7).
4. Claimant submitted a hearing request on April 18, 2013, protesting the closure of her FIP benefits. (Request for a Hearing).

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, 8 USC 601, et seq. The Department of Human Services (DHS or Department) administers the FIP program pursuant to MCL 400.10, et seq., and MAC R 400.3101-3131. The FIP program replaced the Aid to Dependent Children (ADC) program effective October 1, 1996. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Reference Table Manual (RFT).

The department's philosophy is that families are strengthened when children's needs are met. 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.

Clients 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. Absent parents are required to support their children. Support includes child support, medical support, and payment for medical care from any third party. For purposes of this item, a parent who does not live with the child due solely to the parent's active duty in a uniformed service of the U.S. is considered to be living in the child's home.

Failure to cooperate without good cause results in disqualification. Disqualification includes member removal, denial of program benefits, and/or case closure, depending on the program. However, a pregnant woman who fails to cooperate may still be eligible for Medicaid. BEM 255.

Exceptions to the cooperation requirement for FIP, CDC income eligible, Medicaid and FAP programs are allowed for all child support actions except failure to return court-ordered support payments received after the payment effective date. Good cause is granted only if requiring cooperation/support action is against the child's best interests, and there is a specific "good cause" reason. If good cause exists, cooperation is excused as an eligibility requirement for the child involved, but it can still be required for another child in the same family. BEM 255.

Cooperation is a condition of eligibility. The grantee and spouse, the specified relative/person acting as a parent and spouse, and the parent of the child for whom paternity and/or support action is required in the eligible group, are required to cooperate in establishing paternity and obtaining support, unless good cause has been granted or is pending. Cooperation is required in all phases of the process to establish paternity and obtain support and includes all of the following:

- . Contacting the SS 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 (e.g., testifying at hearings or obtaining blood tests).

The department will be notified of a Client's failure to cooperate by the SS or the child support noncooperation report. Upon receipt of this notice, the department starts the support disqualification procedure. The disqualification will not be imposed if any of the following occur during the negative action period:

- . The department is notified by the Office of Child Support (OCS) that the client has cooperated.
- . The case closes for another reason.
- . The noncooperative person leaves the group.
- . Support/paternity action is no longer a factor in the child's eligibility (e.g., the child leaves the group).
- . For disqualifications based on failure to return court-ordered support, the client cooperates with the requirement of returning court-ordered support payments or the support order is certified. BEM 255.

In this case, the Office of Child Support refused to appear. The department case worker did not have personal knowledge of the non-cooperation. The department was also unable to produce a Noncooperation Notice from the Office of Child Support (OCS 1252), and had only the Bridges printout to rely on that Claimant's FIP benefits were going to be closed due to noncooperation with the Office of Child Support.

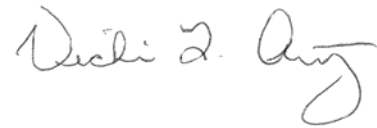
The Administrative Law Judge finds that the department has not met its burden of proof. The department failed to provide any evidence, other than a Bridges printout, that Claimant was non-cooperative with the Office of Child Support and Claimant's testimony that she has cooperated is uncontroverted by the department.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department improperly closed Claimant's FIP benefit case and improperly reduced Claimant's FAP benefits because the department failed to provide any evidence that Claimant had not cooperated.

Accordingly, the department's actions are **REVERSED** and Claimant's FIP and FAP program benefits shall be reinstated.

It is SO ORDERED.



Vicki L. Armstrong
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: June 14, 2013

Date Mailed: June 17, 2013

NOTICE: Administrative Hearings 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. Administrative Hearings 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.

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

2013-44031/VLA

VLA/las

cc:

