

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-55196
Issue No.: 2008, 3006
Case No.: [REDACTED]
Hearing Date: July 29, 2013
County: Wayne DHS (18)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 July 29, 2013, from Detroit, Michigan. Participants included the above-named claimant. Participants on behalf of Department of Human Services (DHS) included [REDACTED], Supervisor, [REDACTED], Specialist, and [REDACTED], Lead Child Support Specialist.

ISSUE

The issue is whether DHS properly imposed a child support sanction in affecting Claimant's Medical Assistance (MA) and Food Assistance Program (FAP) benefit eligibility.

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 FAP and MA benefit recipient.
2. Claimant was uncooperative with establishing paternity for a child.
3. On 6/13/13, DHS mailed Claimant a Notice of Case Action terminating Claimant's MA benefit eligibility, effective 8/2013, and reducing Claimant's FAP benefit eligibility, effective 7/2013, in part, due to a child support disqualification against Claimant.

4. On 6/24/13, Claimant requested a hearing to dispute the child support sanction and its effect on Claimant's FAP and MA benefit eligibility.

CONCLUSIONS OF LAW

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 Mich Admin Code, R 400.3001 through R 400.3015. DHS regulations are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

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. DHS regulations are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

Claimant requested a hearing to dispute a FAP benefit reduction and MA benefit termination. It was not disputed that both adverse actions were caused by imposition of a child support disqualification.

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 (12/2011), p. 1. Failure to cooperate without good cause results in disqualification. *Id.* Disqualification includes member removal, as well as denial or closure of program benefits, depending on the type of assistance. *Id.* The support specialist (i.e. OCS) determines cooperation for required support actions. *Id.*, p. 8.

For FAP benefit eligibility, failure to cooperate without good cause results in disqualification of the individual who failed to cooperate. *Id.*, p. 11. The individual and his/her needs are removed from the FAP EDG for a minimum of one month. *Id.* The remaining eligible group members will receive benefits. *Id.*

For MA benefits, failure to cooperate without good cause results in member disqualification. *Id.* The adult member who fails to cooperate is not eligible for MA when the child for whom support/paternity action is required receives MA and the individual and child live together. *Id.*

It was not disputed that OCS mailed Claimant letters requesting cooperation to establish paternity for Claimant's child. It was not disputed that Claimant failed to respond to either of the OCS inquiries. It was not disputed that the first communication from

Claimant to OCS occurred on 6/28/13 and 7/2/13 when OCS called Claimant. Claimant denied hanging up on OCS, but it was not disputed that neither phone call resulted in successfully establishing paternity for Claimant's child.

Claimant testified that she has been separated from her child's father and that the father is already providing child support and other needs. Claimant also testified that she was hesitant to pursue child support because of the fees charged by Friend of the Court. Claimant's testimony essentially conceded that she was uncooperative with establishing a child support case against her separated spouse. Claimant's argument was that she did not believe that pursuing child support was in her or her child's best interest. Claimant's argument amounted to an assertion of good cause.

There are two types of good cause:

1. Cases in which establishing paternity/securing support would harm the child. DHS is to not require cooperation/support action in any of the following circumstances:
 - The child was conceived due to incest or forcible rape.
 - Legal proceedings for the adoption of the child are pending before a court.
 - The individual is currently receiving counseling from a licensed social agency to decide if the child should be released for adoption, and the counseling has not gone on for more than three months.
2. Cases in which there is danger of physical or emotional harm to the child or client. Physical or emotional harm may result if the client or child has been subject to or is in danger of:
 - Physical acts that resulted in, or threatened to result in, physical injury.
 - Sexual abuse.
 - Sexual activity involving a dependent child.
 - Being forced as the caretaker relative of a dependent child to engage in non-consensual sexual acts or activities.
 - Threats of, or attempts at, physical or sexual abuse.
 - Mental abuse.
 - Neglect or deprivation of medical care.

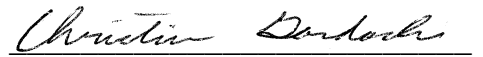
Claimant essentially asserted that she was content with her unofficial child support arrangement and that she did not wish to alter it. Claimant's assertion is not a basis for good cause.

Based on the presented evidence, DHS properly determined Claimant to be uncooperative with establishing child support. Accordingly, the reduction of FAP benefits and termination of Claimant's Medicaid were proper actions.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly reduced Claimant's FAP benefit eligibility, effective

7/2013, and terminated Claimant's MA benefit eligibility, effective 8/2013. The actions taken by DHS are AFFIRMED.


Christian Gardocki
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 8/7/2013

Date Mailed: 8/7/2013

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

CG/hw

cc:

