

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-7997
Issue No.: 6002
Case No.: [REDACTED]
Hearing Date: January 7, 2014
County: Kalamazoo DHS

ADMINISTRATIVE LAW JUDGE: Landis Y. Lain

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 January 7, 2014, from Lansing, Michigan. Participants on behalf of Claimant included Claimant. The Department was represented by [REDACTED] Eligibility Specialist.

ISSUE

Did the Department of Human Services (the Department) properly cancel Claimant's Child Development and Care (CDC) case?

FINDINGS OF FACT

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

1. Claimant was a [REDACTED] benefit recipient for her [REDACTED] whose [REDACTED].
2. On July 27, 2013, the Office of Child Support sent Claimant first customer contacts letter requesting information about her [REDACTED] with information due no later than August 22, 2013, (Department Exhibit 34).
3. On August 31, 2013, Office of Child Support sent the Claimant final customer contact letter requesting information about the [REDACTED] with information due no later than September 23, 2013, (Department Exhibit 27).
4. On September 30, 2013, Office of Child Support sent Claimant a non-cooperation notice letter indicating that Claimant would be consider not cooperative with the child support program because she failed to respond to two letters to contact the office by August 2, 2013 and by September 23, 2013. The letter also indicated that failure to cooperate with the child support program would result in reduction for benefits or case closure unless she had a good cause reason, (Department Exhibit 45).

5. On October 2, 2013, the Department caseworker sent Claimant notice that her CDC case will be canceled effective November 1, 2013 based upon her non-cooperation sanction from the Office of Child Support.
6. On October 18, 2013, Claimant filed a request for a hearing to contest the Department's negative action.
7. On October 22, 2013, a pre-hearing conference was held. Claimant stated that she had no information on the [REDACTED] she was [REDACTED] [REDACTED] and [REDACTED], (Department Exhibit 4).

CONCLUSIONS OF LAW

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his or her claim for assistance has been denied. MAC R 400.903(1). Clients have the right to contest a Department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The Department will provide an administrative hearing to review the decision and determine the appropriateness of that decision. BAM 600.

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

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 1997 AACS R 400.3001-3015

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 (FOC) and the prosecuting attorney to establish paternity and/or obtain support from an absent parent.

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.

Absent parents are required to support their children. Support includes **all** of the following:

- Child support.
- Medical support.

- Payment for medical care from any third party.

Failure to cooperate without good cause results in disqualification. Disqualification includes member removal, as well as denial or closure of program benefits, depending on the type of assistance (TOA); see [Support Disqualification](#) in this item. BEM, Item 255, page 1.

There are two types of good cause:

Cases in which establishing paternity/securing support would harm the child. Do **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.

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. BEM, Item 255, page 3.

Cooperation is a condition of eligibility. The following individuals who receive assistance on behalf of a child are required to cooperate in establishing paternity and obtaining support, unless good cause has been granted or is pending:

- Grantee (head of household) and spouse.
- Specified relative/individual acting as a parent and spouse.

- Parent of the child for whom paternity and/or support action is required. BEM, Item 255, page 7.

Failure to cooperate without good cause results in member disqualification. 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.
- **The individual and child live together.**

Failure to cooperate without good cause results in disqualification of the individual who failed to cooperate. The individual and his/her needs are removed from the FAP EDG for a minimum of one month. The remaining eligible group members will receive benefits. BEM, Item 255, page 11.

In the instant case, evidence on the record indicates that Claimant provided no information about the [REDACTED] of her [REDACTED]. Claimant testified at the hearing that she was going [REDACTED] because of the [REDACTED] of her [REDACTED]. She went to a [REDACTED], was [REDACTED] and [REDACTED] that she [REDACTED]. She went back to the house later but could not discover any information about the [REDACTED].

Claimant made no good cause allegations.

The Claimant's grievance centers solely on dissatisfaction with the Department's current policy. The Claimant's request is not within the scope of authority delegated to this Administrative Law Judge pursuant to a written directive signed by the Department of Human Services Director, which states:

Administrative Law Judges have no authority to make decisions on constitutional grounds, overrule statutes, overrule promulgated regulations or overrule or make exceptions to the Department policy set out in the program manuals.

Furthermore, administrative adjudication is an exercise of executive power rather than judicial power, and restricts the granting of equitable remedies. *Michigan Mutual Liability Co. v Baker*, 295 Mich 237; 294 NW 168 (1940).

The Administrative Law Judge has no equity powers and cannot make a decision in contravention with Department policy.

The Administrative Law Judge finds that the Department has established by the necessary, competent, material, and substantial evidence on the record that it was acting in compliance with Department policy when it determined that per BEM, Item 255 policy, Claimant did not provide sufficient information to identify her [REDACTED]. The child support sanction is appropriate under the circumstances. The child support non-cooperation and sanction which cancelled Claimant's CDC eligibility must be 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 properly cancel Claimant's CDC program benefits based upon its determination that Claimant had a child support sanction in place. Under the circumstances, the child support sanction was properly imposed.

Accordingly, the Department's decision is **AFFIRMED**.

/s/ _____
Landis Y. Lain
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: 1/13/14

Date Mailed: 1/14/14

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.

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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

LYLtb

cc:

