

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

IN THE MATTER OF:



Reg. No.: 201428072
Issue No.: 2000; 3011
Case No.: [REDACTED]
Hearing Date: March 20, 2014
County: Wayne (17)

ADMINISTRATIVE LAW JUDGE: Robert J. Chavez

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 March 20, 2014, from Detroit, Michigan. Participants on behalf of Claimant included [REDACTED], claimant's husband, and [REDACTED], the Department provided interpreter. Participants on behalf of the Department of Human Services (Department) included [REDACTED] ES and [REDACTED], Lead Support Specialist with the Office of Child Support.

ISSUE

Did the Department properly deny Claimant's application close Claimant's case for:

- | | |
|--|---|
| <input type="checkbox"/> Family Independence Program (FIP)? | <input type="checkbox"/> Adult Medical Assistance (AMP)? |
| <input checked="" type="checkbox"/> Food Assistance Program (FAP)? | <input type="checkbox"/> State Disability Assistance (SDA)? |
| <input checked="" type="checkbox"/> Medical Assistance (MA)? | <input type="checkbox"/> Child Development and Care (CDC)? |

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 applied for benefits received benefits for:

- | | |
|--|---|
| <input type="checkbox"/> Family Independence Program (FIP). | <input type="checkbox"/> Adult Medical Assistance (AMP). |
| <input checked="" type="checkbox"/> Food Assistance Program (FAP). | <input type="checkbox"/> State Disability Assistance (SDA). |
| <input checked="" type="checkbox"/> Medical Assistance (MA). | <input type="checkbox"/> Child Development and Care (CDC). |

2. On [REDACTED], the Department
 denied Claimant's application closed Claimant's case
due to a child support noncooperation action.
3. On [REDACTED] the Department sent
 Claimant Claimant's Authorized Representative (AR)
notice of the denial. closure.
4. On [REDACTED], Claimant filed a hearing request, protesting the
 denial of the application. closure of the case.

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, Rule 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, Rule 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 AACS, Rule 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, Rule 400.5001 through Rule 400.5015.

Regulations governing the Office of Child Support (OCS) can be found in the Office of Child Support Policy Manual (OCSPM).

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. 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. BEM 255.

Noncooperation exists when the custodial parent (CP) does not respond to a request for action or does not provide information, and the process to establish paternity and/or a child support order cannot move forward without the CP's participation. A CP is in noncooperation with the IV-D program when the CP, without good cause, willfully and repeatedly fails or refuses to provide information and/or take an action needed to establish paternity or to obtain child support or medical support. OCSPM 2.15. IV-D staff apply noncooperation to a CP only as a last resort when no other option is available to move the IV-D case forward. OCSPM 2.3.

There is no minimum information requirement. CPs can be required to provide known or obtainable information about themselves, the child(ren) for whom support is sought, and the non-custodial parent (NCP) when needed to obtain support. OCSPM 2.3.1.

In evaluating cooperation, the IV-D worker should consider such factors as the CP's marital status, the duration of his/her relationship with the NCP, and the length of time since the CP's last contact with the NCP. OCSPM 2.3.1.

A CP can be required to cooperate by attesting under oath to the lack of information regarding an NCP. This may assist in determining cooperation in cases in which a CP's willingness to cooperate is questionable but there is insufficient evidence for a finding of noncooperation. The IV-D worker is not required to provide a CP with the opportunity to attest under oath if the CP has not demonstrated a willingness and good-faith effort to provide information. In this situation, the IV-D worker must evaluate whether the CP has knowingly withheld information or given false information, and base a decision on that evidence. OCSPM 2.3.5.

With regard to the FAP program, claimant's FAP benefits were recalculated on [REDACTED]. Claimant's benefits were calculated for a group size of 2, instead

of a total group size of four due to a noncooperation finding with regard to claimant and her husband.

With regard to the child support noncooperation sanction, claimant alleged that the NCP, her husband, was in the home during the entire time of the sanction.

The sanction in question was levied in September 2009, for failing to respond to a contact letter from OCS. Claimant does not speak, read, or write in English, and alleged to be unable to understand the contact letters.

In October 2011, an assistance application was filed showing that the alleged NCP was in the home. OCS was not notified of this by the local office, and did not change its noncooperation finding, as a result of the failure by the local office to notify OCS.

This was error.

While there is some question as to whether the noncooperation action should have been taken given claimant's difficulties in understanding the contact letters, given that claimant is only disputing FAP benefit calculations and MA benefits from November, 2013, such findings are ultimately irrelevant to the current case.

In the current case, claimant had a noncooperation sanctioned levied by OCS, which is a part of DHS. In October 2011, DHS became aware that the alleged NCP, for whom the entire noncooperation action revolved around, was in the household. As such, the noncooperation action should have been removed at that time, as there was no reason to continue a child support case. The Department's failure to notify its own sub-departments was error, and as such, the noncooperation should be removed.

Had claimant requested a hearing on this matter, in 2011, FAP benefits could have been recalculated from that date. However, per BAM 600, an aggrieved client has 90 days to request a hearing. Claimant requested a hearing on [REDACTED], on the basis of their [REDACTED] 3 FAP calculation. Therefore, as claimant has not requested a hearing until this February date, FAP benefits may only be recalculated in light of the erroneous noncooperation finding to the December 2013, issuance month, the first month of FAP benefits that falls within the 90 day hearing request deadline.

With regards to the MA case, the Department showed that claimant's MA benefits had not been closed or denied due to the noncooperation. Claimant's MA benefits had been closed for over a year due to failure to meet a spenddown; as such there is no cause of action with regards to the MA case because no hearing was requested in regards to the MA case within 90 days of a negative case action, and claimant had no currently open or pending MA application. As such, claimant's request for a hearing with regard to the MA program is DISMISSED. BAM 600.

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

properly denied Claimant's application improperly denied Claimant's application
 properly closed Claimant's case improperly closed Claimant's case

for: AMP FIP FAP MA SDA CDC.

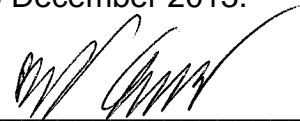
DECISION AND ORDER

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 act properly. did not act properly.

Accordingly, the Department's decision in this case REVERSED.

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Remove the noncooperation sanction from claimant's case retroactive to October 2011, and recalculate claimant's FAP benefits retroactive to December 2013.



Robert J. Chavez
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 3/31/2014

Date Mailed: 3/31/2014

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,

2014-28072/RJC

- 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

RJC/hw

cc:

