

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

IN THE MATTER OF:

██████████
████████████████████
██████████

Reg. No.: 2014-29951
Issue No(s): 2011; 3011; 6011
Case No.: ██████████
Hearing Date: March 27, 2014
County: Wayne (15)

ADMINISTRATIVE LAW JUDGE: Susan C. Burke

HEARING DECISION

Following Claimant's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, a telephone hearing was held on March 27, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████, ES.

ISSUE

Did the Department properly deny Claimant's application for Medical Assistance (MA), Food Assistance Program (FAP) and 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 FAP on or about February 18, 2014.
2. Claimant requested a hearing on March 3, 2014 regarding MA, FAP and CDC, stating that she could not locate her son's father.
3. The Department sent notice of denial of FAP benefits on March 5, 2014.
4. Claimant complied with child support requirements to the best of her ability.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), Department of Human Services Reference Tables Manual (RFT), and Department of Human Services Emergency Relief Manual (ERM).

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food Stamp Act of 1977, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 271.1 to 285.5. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10 and Mich Admin Code, R 400.3001 to .3015.

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act, 42 USC 1396-1396w-5, and is implemented by 42 CFR 400.200 to 1008.59. The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10 and MCL 400.105.

The Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, 42 USC 601-619, 670-679c, and 1397-1397m-5; the Child Care and Development Block Grant of 1990, PL 101-508, 42 USC 9858 to 9858q; and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193. The program is implemented by 45 CFR 98.1-99.33. The Department administers the program pursuant to MCL 400.10 and provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001-.5020.

In the present case, Claimant applied for FAP benefits on or about February 18, 2014. Claimant requested a hearing on March 3, 2014 regarding MA, FAP and CDC. The Department addressed only FAP in its hearing summary. In addition, the Department presented a Notice of Case Action which was dated after Claimant's request for hearing, showing that Claimant was denied FAP benefits due to, *inter alia*, non-cooperation with child support. If Claimant applied for MA and CDC, the Department did not support its reasons for denial of the applications.

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.

BEM 255, p. 7 instructs:

Cooperation is required in all phases of the process to establish paternity and obtain support. It includes **all** of the following:

- Contacting the support specialist 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 (including but not limited to testifying at hearings or obtaining blood tests).

Regulations governing the Office of Child Support (OCS) can be found in the IV-D Manual (4DM).

Non-cooperation exists when a client, without good cause, willfully and repeatedly fails or refuses to provide information and/or take an action resulting in delays or prevention of support action. 4DM 115.

Before finding a client non-cooperative, the Support Specialist must establish and document that the client failed and/or refused to provide known or obtainable information and/or to take an action without an acceptable reason or excuse. 4DM 115. The goal of the cooperation requirement is to obtain support. Support specialists should find non-cooperation only as a last resort. There is no minimum information requirement. 4DM 115.

Several factors may affect a client's ability to remember or obtain information. In evaluating cooperation, the Support Specialist should consider such factors as client's marital status, duration of relationship and length of time since last contact with the non-custodial parent. A client who was married to the non-custodial parent or knew the putative father for several months can reasonably be expected to provide identifying and location information. The extent and age of location information obtainable may be affected by how long it has been since the parties last lived together or had personal contact. 4DM 115.

In the present case, Claimant testified credibly that she attempted to cooperate with the Office of Child Support, by calling the number as listed on the Notice of Case Action. Claimant spoke with a person from that office who instructed Claimant to proceed with this hearing. Claimant testified she has done the following to locate the father of her child: called his cell phone, which is now disconnected, went physically to his mother's residence, which property was found to be vacant, and contacted a mutual friend to see if she knew where the father was. Claimant stated that she believed that the father grew up in Indiana. Claimant's testimony was not contradicted by the Department. It is noted that the Department representative stated that she did not fax the hearing summary to the Office of Child Support as is her custom.

Based on the above discussion, it is found that Claimant cooperated in child support matters to the best of her ability.

It is noted that the Notice of Case Action denying Claimant's FAP benefits listed reasons other than failure to cooperate with child support, but the Department presented no substantiating evidence to support the other reasons for denial.

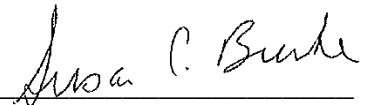
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it denied Claimant's FAP application, MA application (if any) and CDC application (if any).

DECISION AND ORDER

Accordingly, the Department's decision is REVERSED.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Remove the child support sanction from Claimant's case, engaging the Office of Child Support if necessary.
2. Reregister and reprocess Claimant's FAP application of on or about February 18, 2014.
3. Reregister and reprocess Claimant's MA and CDC applications, if any.
4. Issue supplements for any missed payment Claimant was entitled to receive.



Susan C. Burke
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: March 28, 2014

Date Mailed: March 31, 2014

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.

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

SCB/tm

cc: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]