

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201428009
Issue No.: 2011, 3011, 6011
Case No.: [REDACTED]
Hearing Date: March 18, 2014
County: Calhoun County DHS #21

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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 18, 2014, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED] [REDACTED] and [REDACTED] representing the Office of Child Support.

ISSUE

Whether the Department of Human Services (Department) properly sanction the Claimant's Medical Assistance (M.A.), Food Assistance Program (FAP), and Child Development and Care (CDC) benefits for 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. The Claimant was an ongoing Medical Assistance (M.A.), Food Assistance Program (FAP), and Child Development and Care (CDC) recipient.
2. On December 23, 2013, the Department determined that the Claimant had been non-cooperative with the Office of Child Support.
3. On January 15, 2014, the Department notified the Claimant that it would close her Medical Assistance (M.A.) and Child Development and Care (CDC) benefits as of February 1, 2014.
4. On January 15, 2014, the Department notified the Claimant that it would reduce her Food Assistance Program (FAP) group size to two.

5. The Department received the Claimant's request for a hearing on February 18, 2014, protesting the sanctioning of her Medical Assistance (M.A.), Food Assistance Program (FAP), and Child Development and Care (CDC) benefits.

CONCLUSIONS OF LAW

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 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 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.

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. 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. Department of Human Services Bridges Eligibility Manual (BEM) 255 (January 1, 2014), pp 1-2.

In this case, the Claimant was an ongoing Medical Assistance (M.A.), Food Assistance Program (FAP), and Child Development and Care (CDC) recipient. On December 23, 2013, the Department determined that the Claimant had been non-cooperative with the Office of Child Support.

A representative of the Office of Child Support testified that he requested that the Claimant provide information necessary to identify and locate the absent parent. The Office of Child Support representative testified that the Claimant was in contact with him, but failed to identify the absent parent. The Office of Child Support representative testified that typically where a relationship is intimate enough to result in the conception of a child, that the mother knows the identity of the father and can provide the Department with enough information to investigate his location. The Office of Child Support representative testified that he can't say what the Claimant doesn't know.

The Claimant testified that a person she had previously thought to be the absent father was excluded by a DNA test. The Claimant testified that she does not know the identity of the absent father and therefore cannot reveal any identifying information.

The Department has the burden of proving noncooperation. Based on the evidence and testimony available during the hearing, this Administrative Law Judge finds that the Department has presented insufficient evidence to establish that the Claimant has failed to cooperate with the Office of Child Support. Because there was no evidence that the mother knew the absent father's identity and was refusing to provide that information, the finding of noncooperation was unsupported by the record.

Therefore, the Department has failed to establish that it properly sanctioned the Claimant's Medical Assistance (M.A.), Food Assistance Program (FAP), and Child Development and Care (CDC) benefits.

DECISION AND ORDER

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 sanctioned the Claimant's Medical Assistance (M.A.), Food Assistance Program (FAP), and Child Development and Care (CDC) benefits.

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. Initiate a determination of the Claimant's eligibility for Medical Assistance (M.A.), Food Assistance Program (FAP), and Child Development and Care (CDC) as of February 1, 2014.
2. Provide the Claimant with a Notice of Case Action (DHS-1605) describing the Department's revised eligibility determination.
3. Issue the Claimant any retroactive benefits she may be eligible to receive, if any.



Kevin Scully
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: March 25, 2014

Date Mailed: March 25, 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

KS/hj

cc:

