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

IN THE MATTER	C	ь:
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	Reg. No.: Issue No.: Case No.: Hearing Date: County:	14-005529 1011;2011;3011 July 28, 2014 WAYNE-57 (CONNER)		
ADMINISTRATIVE LAW JUDGE: ROBERT J. CH	AVEZ			
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 July 28, 2014, from Detroit, Michigan. Participants on behalf of the Department of Human Services (Department) included APS and , ES.				
ISSUE				
Did the Department properly \boxtimes deny Claimant's application \square close Claimant's case for:				
 ☐ Family Independence Program (FIP)? ☐ Food Assistance Program (FAP)? ☐ Medical Assistance (MA)? ☐ Adult Medical Assistance (AMP)? 	Child Developme	Assistance (SDA)? nt and Care (CDC)? Services (DSS)? nents (SSP)?		
FINDINGS OF FA	<u>ACT</u>			
The Administrative Law Judge, based on the c evidence on the whole record, finds as material fac		ial, and substantial		
Claimant ⊠ applied for ☐ received: ⊠ FIP ⊠ FAP ⊠ MA ☐ AMP ☐ September benefits.	SDA 🗌 CDC	□ DSS □ SSP		

2.	On June 11, 2014, the Department		
	□ denied Claimant's application	closed Claimant's case	
	due to paternity noncooperation.		

- 3. On June 11, 2014, the Department sent Claimant/Claimant's Authorized Representative (AR) its decision.
- 4. On June 17, 2014, Claimant/Claimant's Authorized Hearing Representative (AHR) filed a hearing request, protesting the Department's actions.

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), and Department of Human Services Reference Tables Manual (RFT).

The Family Independence Program (FIP) was established pursuant to the Personal
Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193, and 42
USC 601 to 679c. The Department (formerly known as the Family Independence
Agency) administers FIP pursuant to MCL 400.10 and 400.57a and Mich Admin Code,
R 400.3101 to .3131.

☑ 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.

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.

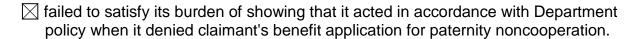
In evaluating cooperation, the IV-D worker should consider such factors as the CP's marital status, the duration of his/her relationship with the NCP, and the length of time since the CP's last contact with the NCP. OCSPM 2.3.1.

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 child support noncooperation sanction, no evidence was presented that this sanction was correct. The only evidence presented with regard to the accuracy of the sanction was testimony attesting that the claimant was under sanction—this testimony cannot be used to prove itself. None of this evidence shows exactly why claimant is under a sanction, whether claimant has actually failed to cooperate, or how claimant is noncooperative.

Simply put, the Administrative Law Judge has received no evidence as to whether the sanction is accurate, why claimant was sanctioned, whether a sanction is warranted, or if claimant even requires child support that would support a sanction. OCS did not testify, and no other evidence regarding the sanction was presented; therefore, as the Department has the burden of proof in these matters, the sanction cannot stand. Furthermore, per claimant testimony, claimant has cooperated to the best of their ability, and there is no evidence that this sanction was applied as a last resort, as required by policy.

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department



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 noncooperation penalty from claimant's case and reprocess the May 22, 2014 application for benefits.

ROBERT J. CHAVEZ

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

Date Signed: August 12, 2014 Date Mailed: August 12, 2014

RJC/tm

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, or the circuit court in Ingham County, within 30 days of the receipt date.

A party may request a rehearing or reconsideration of this Hearing Decision from the Michigan Administrative Hearing System (MAHS) within 30 days of the mailing date of this Hearing Decision, or MAHS may order a rehearing or reconsideration on its own motion.

MAHS may grant a party's Request for Rehearing or Reconsideration 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 party requesting a rehearing or reconsideration 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 this Hearing Decision is mailed.

A written request may be faxed or mailed to MAHS. If submitted by fax, 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

