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

IN THE MATTER OF:

[redacted]

Reg. No.: 14-011188
Issue No.: 3001; 6001
Case No.: [redacted]
Hearing Date: November 05, 2014
County: EATON

ADMINISTRATIVE LAW JUDGE: Susanne Harris

HEARING DECISION

Following the 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, and in-person hearing was held on November 5, 2014, from Charlotte, Michigan. Participants on behalf of the Claimant included [redacted]; her sister, [redacted] and her attorney, [redacted] of [redacted]. [redacted] on behalf of the Department of Human Services (Department) included Hearing Coordinator and Eligibility Specialist, [redacted].

PROCEDURAL HISTORY

This matter was originally scheduled to be heard on October 8, 2014. On October 8, 2014, Administrative Law Judge C. Adam Purnell issued an Adjournment Order. The matter was rescheduled for November 5, 2014 and commenced as a rescheduled.

ISSUE

Did the Department properly close Claimant's case for Child Development and Care (CDC) to reduce her benefit for Food Assistance Program (FAP)?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. The Claimant received FAP, MA and CDC benefits.

2. On September 7, 2014, the Department closed Claimant's case for CDC and on September 1, 2014, the Department reduced the Claimant's monthly FAP allotment due to the Claimant noncooperation with the Office of Child Support (OCS).

3. On August 16, 2014, the Department sent the Claimant its decision.

4. On August 27, 2014, the Claimant 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.

☐ The Adult Medical Program (AMP) is established by 42 USC 1315 and is administered by the Department pursuant to MCL 400.10.

☐ The State Disability Assistance (SDA) program is established by the Social Welfare Act, MCL 400.1-.119b. The Department of Human Services (formerly known as the Family Independence Agency) administers the SDA program pursuant to MCL 400.10 and Mich Admin Code, R 400.3151-.3180.

☒ 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.

☐ Direct Support Services (DSS) is established by the Social Welfare Act, MCL 400.1-.119b. The program is administered by the Department pursuant to MCL 400.10 and 400.57a and Mich Admin Code R 400.3603.

☐ The State SSI Payments (SSP) program is established by 20 CFR 416.2001-.2099 and the Social Security Act, 42 USC 1382e. The Department administers the program pursuant to MCL 400.10.

In this case, the Claimant was also protesting a closure of her MA case. However, during the hearing the Department presented persuasive evidence that the Claimant has had, at all times relevant to this matter, MA benefits. The Claimant testified that she has medical bills that are not being paid by her MA benefits. The Administrative Law Judge suggested that the Claimant and the Department worker meet to discuss this outside of the hearing. Based on the DHS-1605, Notice of Case Action and the eligibility summaries contained in the record, the Administrative Law Judge determines that the Claimant has had MA continuously since August 2014.

Regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in Mich Admin Code, R 400.901 through R 400.951. Rule 400.903(1) provides as follows:

> An opportunity for a hearing shall be granted to an applicant who requests a hearing because [a] claim for assistance is denied or is not acted upon with reasonable promptness, and to any recipient who is aggrieved by a Department action resulting in suspension, reduction, discontinuance, or termination of assistance.

In this case, the Administrative Law Judge determines that the Claimant has suffered no negative action regarding her MA case. As such, the Administrative Law Judge dismisses the Claimant the hearing request with respect MA.

During the hearing, the Claimant's attorney asserted that the Claimant's benefits should have been continued pending her hearing according to the Department policy. Bridges Administrative Manual (BAM) 600 (2013) p. 18, provides that, while waiting for the hearing decision, recipients must continue to receive the assistance authorized prior to the notice of negative action when the request was filed timely. It instructs department workers that, upon receipt of a timely hearing request, to reinstate program benefits to the former level for a hearing request filed because of a negative action. It is not contested that the Claimant timely requested his hearing. The Department does not meet its burden of establishing that the Claimant's FAP and CDC benefits were properly continued pending this hearing, as the Department is not contesting that the Claimant's benefits were not continued. In this regard, the Administrative Law Judge determines that the Department did not act in accordance with its policy when failing to continue the Claimant's benefits at her previous level of eligibility.

Bridges Eligibility Manual (BEM) 255 (2013) pp. 1, 2, provides that cooperation with the OCS is a condition of eligibility for benefits. Failure to cooperate with the OCS without good cause results in disqualification. BEM 255, pp. 5-8, provides that it is the role of the Support Specialist (SS) to determine cooperation and non-cooperation and to attend pre-hearings and administrative hearings. Cooperation includes 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 genetic tests).

The Department has the burden of proving noncooperation. It must prove that the custodial parent failed to provide the requested information and that the custodial parent *knew* the requested information. A finding of noncooperation is unsupported when there is no evidence that the custodial parent knows the noncustodial parent identity refuses to provide that information. Black v. Department of Social Services, 195 Mich. App. 27 (1992).

In this case, the Claimant provided a first name and a telephone number of the noncustodial parent and she informed the Support Specialist at OCS that she met the noncustodial parent online. The Claimant testified that she spent two nights with the noncustodial parent at her apartment and has had no contact with him since then. The essence of the Department's argument in this case is that it is simply unreasonable that the Claimant does not have any more information regarding the noncustodial parent. Essentially, the Lead Support Specialist from the OCS insinuated that the Claimant was not credible in her testimony that she had no further information. As such, the Department fails to meet its burden of establishing that the Claimant knows the noncustodial parent's identity and refuses to provide that information. There is no evidence to support that the Claimant, however unwise her actions may have been in the past, knows the requested information.

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 did not act in accordance with Department policy when it took action to close the Claimant's CDC case and to reduce the Claimant's FAP allotment.

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. Redetermine the Claimant's eligibility for CDC back to September 7, 2014, and

2. Redetermine the Claimant eligibility for FAP back to September 1, 2014, and

3. Issue the Claimant a new notice informing the Claimant of the Department's new eligibility decision, and

4. Issue the Claimant any supplements she may thereafter be due.

Susanne E. Harris

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

Date Signed: **11/10/2014**

Date Mailed: **11/10/2014**

SEH/hj

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

cc: [redacted]