

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

IN THE MATTER OF:

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

Reg. No.: 15-008062
Issue No.: 3011, 6001
Case No.: ██████████
Hearing Date: June 22, 2015
County: WAYNE-DISTRICT 19
(INKSTER)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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; and Mich Admin Code, R 792.11002. After due notice, a three way telephone hearing was held on June 22, 2015, from Detroit, Michigan. Participants on behalf of Claimant included the Claimant. Participants on behalf of the Department of Health and Human Services (Department) included ██████████, Hearing Facilitator, and a witness from the Office of Child Support (OCS), ██████████ Lead Worker, also appeared.

ISSUE

Did the Department properly determine that the Claimant did not have good cause for non-cooperation with child support?

Did the OCS properly find the Claimant in non-cooperation?

Did the Department properly process the Claimant's request for car repair which it approved?

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 was an ongoing recipient of Food Assistance (FAP) and CDC.
2. The Department issued a Notice of Case Action removing the Claimant from her FAP group effective June 1, 2015 due to non-cooperation with OCS.

3. The Department closed the Claimant's CDC benefits effective May 31, 2015 due to non-cooperation with OCS.
4. The Claimant asserted good cause based upon prior protective orders she received when her child's father and family attempted to kill Claimant and her child. The Claimant in 2005 was removed from the home under a DHS program at the time due to the assaults and domestic violence against her and her child into a house where she could not be found by her husband. The Department has consistently found good cause in this case in prior reviews.
5. The Department denied good cause as of February 26, 2015 because the Claimant did not have an updated protective order against the child's father. The OCS also had the father's name, social security number and birth date, but the Claimant had advised OCS that if child support was sought from the father she and her child would be in danger.
6. The Claimant was removed from her FAP group effective June 1, 2015 due to non-cooperation notice issued by the OCS.
7. At the hearing the OCS issued a Cooperation Notice retroactive to May 12, 2015 due to finding good cause indefinite with extenuating circumstance. Exhibit 3.
8. On April 17, 2015 the Claimant was approved for car repair in the amount of \$900 under the Direct Support Services program but has not received final funding approval. As of the hearing the Department had not completed authorization of the repair it had previously approved. The Department testified it was waiting for a response from the District Manager to indicate that the funding was available.
9. The Claimant no longer needed a hearing regarding her medical as her medical assistance benefits were not affected by the finding of OCS non-cooperation and are ongoing.
10. The Claimant requested a timely hearing on May 15, 2015 protesting the Department's actions.

CONCLUSIONS OF LAW

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

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food and Nutrition Act of 2008, as amended, 7 USC 2011 to 2036a

and is implemented by the federal regulations contained in 7 CFR 273. The Department (formerly known as the Department of Human Services) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011.

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. The Department (formerly known as the Department of Human Services) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

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.

In this case, the issue involves the Department's action due to a finding of non-cooperation which removed the Claimant from her FAP group and closed the Claimant's CDC based upon a finding of non-cooperation effective May 12, 2015. At the hearing the Office of Child Support issued a Cooperation Letter retroactive to the non-cooperation date of May 12, 2015. Exhibit 1 and 3.

Based upon the finding of cooperation and removal of the finding of non-cooperation, there is nothing further for this Administrative Law Judge to determine except the orders necessary to restore Claimant's FAP and CDC benefits.

As regards the Claimant's request for hearing regarding medical assistance it is determined, based upon the eligibility summary presented by the Department, that Medical Assistance is ongoing and thus there is nothing for the undersigned to decide.

As regards the Direct Support Services for car repair, there is no entitlement to these services and once approved depends upon funding availability and, thus, the Department must complete the processing of the approval and determine funding availability. BEM 232, (July 1, 2014) p.1.

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:

did not act in accordance with Department policy when it found no good cause and non-cooperation with the OCS and closed the Claimant's CDC and removed Claimant from her Food Assistance group;

did act in accordance with Department policy when it sought approval of the car repair but must process the case and make a determination regarding funding availability.

No issue remains regarding the Claimant's hearing request regarding Medical Assistance as Claimant and her child have active MA.

DECISION AND ORDER

Accordingly, the Department's decision is:

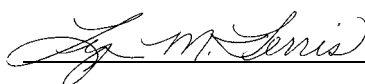
AFFIRMED IN PART with respect to its actions regarding the car repair; and

REVERSED IN PART with respect to CDC closure and FAP reduction due to non-cooperation with the OCS.

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. The Department shall reinstate the Claimant to her FAP group and recalculate the Claimant's benefits for June 2015. The Department shall issue a supplement to the Claimant for FAP benefits she is entitled to receive in accordance with Department policy.
2. The Department shall reinstate the Claimant's CDC case as of the date of closure and supplement the Claimant for any CDC benefits Claimant was otherwise entitled to receive in accordance with Department Policy.
3. The Department shall complete the processing of the Claimant's car repair assistance which has been approved and advise Claimant as to the availability of funds.

4. The Claimant's request for hearing regarding Medical Assistance is hereby DISMISSED.



Lynn M. Ferris
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **6/29/2015**

Date Mailed: **6/29/2015**

LMF / cl

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 copy of the claim or application for appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Hearing Decision from 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.

