

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

IN THE MATTER OF:

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Reg. No.: 15-001971
Issue No.: 1011; 2001; 3011
Case No.: ██████████
Hearing Date: March 18, 2015
County: Wayne-District 57 (Conner)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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 4-way telephone hearing was held on March 18, 2015, from Detroit, Michigan. Participants on behalf of Claimant included Claimant, who participated from the Conner office. Participants on behalf of the Department of Human Services (Department) included ██████████, Family Independence Manager/Hearing Facilitator from the Conner office; ██████████, Family Independence Specialist participating by telephone from the Hamtramck office; and ██████████, lead worker with the Office of Child Support (OCS) participating by telephone.

ISSUE

Did the Department properly remove Claimant as a member of her Food Assistance Program (FAP) group and close her Family Independence Program (FIP) case based on a child support noncooperation sanction?

Did the Department properly provide Medical Assistance (MA) coverage to Claimant's minor child?

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 was an ongoing recipient of FAP and FIP benefits for herself and her minor child L.
2. Child L was an ongoing recipient of MA benefits.

3. On November 6, 2014, OCS found Claimant in noncooperation with her child support reporting obligations with respect to L, born March 29, 2013.
4. On January 14, 2015, the Department sent Claimant a Notice of Case Action notifying her that, because of the child support sanction, she was removed from her FAP group and the group's FAP benefits decreased effective January 1, 2015 and her FIP case would close effective February 1, 2015.
5. On January 26, 2015, Claimant filed a request for hearing disputing 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), Department of Human Services Reference Tables Manual (RFT), and Department of Human Services Emergency Relief Manual (ERM).

As a preliminary matter, it is noted that Claimant did not clearly identify the programs at issue in her January 16, 2015 hearing request. At the hearing, she testified that she was concerned about the closure of her FIP case, the reduction of her FAP benefits and the closure of her daughter's MA case.

Daughter's MA Case

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 Family Independence Agency) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

Claimant testified that she was concerned that her daughter's MA case had closed. After reviewing its system, the Department responded that the child continued to be covered for MA benefits that she began receiving when she was placed in foster care in 2013 even though she had been returned to Claimant's care in March 2014. In support of its position, the Department provided an EDG-Search Summary printout from its system. The document identified the type of assistance as "MA-FCDW" and showed that the child's current participation status was "eligible child" (Exhibit A). However, the document also showed that there was a "negative action effective date" of August 21, 2014. Because the document does not clearly establish that L has ongoing, uninterrupted MA coverage, the Department has failed to satisfy its burden of showing that it acted in accordance with Department policy with respect to Claimant's child's MA case.

FAP Reduction and FIP Closure

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Family Independence Agency) administers FIP pursuant to 45 CFR 233-260, MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, 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 273. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001 to .3015.

The Department testified that after it became aware of Claimant's November 6, 2014 noncompliance with her child support reporting obligations, it sent her a Notice of Case Action on January 14, 2015. The Notice informed Claimant that her FIP case would close effective February 1, 2015 because she had failed to cooperate in establishing paternity or securing child support and her FAP benefits were reduced for a group size of one effective January 1, 2015. Based on the fact that the Notice references a FAP approval for the period from January 1, 2015 to December 31, 2015, it appears that the FAP reduction was tied to a redetermination. At the hearing, the Department explained that both the FIP closure and FAP reduction were due to the child support sanction.

As a condition of FAP and FIP eligibility, the custodial parent of a minor child must comply with all requests for action or information needed to establish paternity and/or obtain child support on behalf of children for whom the parent receives assistance, unless a claim of good cause for not cooperating has been granted or is pending. BEM 255 (October 2014), p. 1. Cooperation includes providing all known information about the absent parent. BEM 255, p. 9. Clients who fail without good cause to cooperate with child support reporting obligations are ineligible for FIP. BEM 255, p. 12. Further, clients who do not cooperate with their child support reporting obligations are disqualified members of their FAP groups. BEM 212 (July 2014), p. 8; BEM 255, p. 13.

At the hearing, OCS testified that it had sent Claimant letters requesting information concerning L's father on September 12, 2014 and October 11, 2014. When it did not receive a response, it sent Claimant a noncooperation letter on November 6, 2014. According to OCS, Claimant called OCS on January 26, 2015 and explained that the child was the product of a one-night stand and she did not know the father. She called back on February 11, 2015 with the name of a possible father and age range but OCS was unable to match the name with an individual within the provided age range.

At the hearing, Claimant testified that she was not even aware that she had had sex when L was conceived: she explained that she and her niece had met two men at a

club, invited them both to their home, and the next day one of the men informed her that she might want to take a pregnancy test because he had had sex with her while she was asleep. Claimant testified that she did not believe him. In fact, at the time she was with her boyfriend, the same man she continued to date as of the hearing date, and thought L's father was her boyfriend. It was only after she had taken an at-home DNA test that she found out that her boyfriend was not L's father and concluded that the man from the club was L's father. Claimant admitted she had not filed any report with the police after the man from the club informed her that he had sex with her while she was asleep. She also admitted that she had not identified her boyfriend as a possible father of L because she believed, based on the at-home DNA test results, that he was not the father.

Based on the evidence at the hearing, particularly the fact that Claimant had not identified her boyfriend as L's possible father to OCS, OCS could properly conclude that Claimant had not provided all known information about the absent parent and taken appropriate actions needed to establish paternity and obtain child support. Therefore, OCS properly placed Claimant in noncompliance with her child support reporting obligations.

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 acted in accordance with Department policy when it closed Claimant's FIP case and reduced her FAP benefits but failed to satisfy its burden of showing that it acted in accordance with Department policy with respect to Claimant's child's MA case.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED IN PART with respect to reduction of Claimant's FAP benefits and closure of her FIP case and REVERSED IN PART with respect to closure of Claimant's child's MA case.

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. Reinstate Claimant's child's MA case from the date of any closure;
2. Provide the child with full-coverage MA benefits from the date of closure ongoing;
and
3. Notify Claimant of any intended actions concerning the child's MA case in accordance with Department policy.



Alice C. Elkin
Administrative Law Judge
for Nick Lyon, Interim Director
Department of Human Services

Date Signed: **3/24/2015**

Date Mailed: **3/24/2015**

ACE / tlf

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:

