

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 15-002509
Issue No.: 6007
Case No.: [REDACTED]
Hearing Date: April 30, 2015
County: KALAMAZOO

ADMINISTRATIVE LAW JUDGE: Susanne E. 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; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on April 30, 2015, from Lansing, Michigan. Participants on behalf of the Claimant included the Claimant, [REDACTED]. Participants on behalf of the Department of Health and Human Services (Department) included Lead Support Specialist of the Office of Child Support (OCS), [REDACTED]endon and Hearing Facilitator, [REDACTED].

ISSUE

Did the Department properly take action to close the Claimant's Child Development and Care (CDC) case, due to her being in non-cooperation status with the OCS?

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 CDC benefits.
2. On January 8, 2015, the OCS placed the Claimant in non-cooperation status.
3. On January 10, 2015, the Department sent the Claimant a DHS-1605, Notice of Case Action, informing the Claimant that her CDC case would close effective January 25, 2015.
4. On February 9, 2015, the Department received the Claimant's written hearing request protesting the Department's decision.

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 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.

Additionally, Bridges Eligibility Manual (BEM) 255 (2014) 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 for benefits. 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 testified that she had no further information regarding her child's father. The Lead Support Specialist was asked how it is that the OCS knows that the Claimant has more knowledge of the child's father than she is disclosing. The Lead Support Specialist from OCS testified that they "assume" that the Claimant would know who the possible fathers of her child are. The Claimant testified that she was married at the time she became pregnant, that she and her husband had a paternity test and it was determined that her husband was not the father of the child. They subsequently divorced. The Claimant testified that, "I was a huge slut and didn't care."

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.

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 took action to close the Claimant's CDC case.

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. Reinstate the Claimant's CDC case back to January 25, 2015, and
2. Issue the Claimant any supplements she may thereafter be due.



Susanne E. Harris
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **5/4/2015**

Date Mailed: **5/4/2015**

SEH/sw

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.

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 48909-8139

cc:

