

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

IN THE MATTER OF:

██████████
██████████
██████████

Reg. No.: 15-006063
Issue No.: 2000;3001
Case No.: ██████████
Hearing Date: May 18, 2015
County: Wayne-District 57 (Conner)

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

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 May 18, 2015, from Detroit, Michigan. Participants on behalf of Claimant included Claimant, her significant other, ██████████, and her advocate/family friend, ██████████. Participants on behalf of the Department of Health and Human Services (Department) included ██████████, Hearings Facilitator and ██████████, Lead Support Specialist with the Office of Child Support (OCS).

ISSUE

Did the Department properly process Claimant's Medical Assistance (MA) and Food Assistance Program (FAP) benefits?

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 MA and FAP benefits.
2. On February 13, 2015, the Department sent Claimant a Health Care Coverage Determination Notice informing her that effective March 1, 2015, MA benefits for her child would be terminated on the basis that Claimant failed to return the redetermination. (Exhibit A)
3. Claimant has not received any FAP benefits since November 2014.

4. On April 14, 2014, Claimant submitted a hearing request disputing 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).

MA

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.

Claimant requested a hearing concerning her MA benefits because she believed that her benefits and her daughter's benefits had been terminated. At the hearing, the Department testified that on February 13, 2015, it sent Claimant a Health Care Coverage Determination Notice informing her that effective March 1, 2015, ongoing, her daughter would be ineligible for MA benefits on the basis that Claimant failed to return the redetermination. (Exhibit A). The Department testified that Claimant's redetermination was received timely and that her daughter's MA case was put in negative action and closed in error. The Department stated that after receiving Claimant's hearing request, it corrected the action by processing Claimant's redetermination and reinstating Claimant's daughter's MA case effective March 1, 2015. The Department presented an eligibility summary in support of its testimony that Claimant's daughter's MA case was active and ongoing. (Exhibit B). With respect to Claimant's MA benefits, Claimant testified that she received a notice from the Department informing her that her MA case was closed, however, Claimant did not present the notice at the hearing, and a search of the Department's system did not reveal any notice sent to Claimant concerning her own MA case. The Department stated that Claimant had active and ongoing MA benefits under the PCR MA program and that there had been no lapse in her coverage. The Department's eligibility summary supports its testimony. (Exhibit B). Therefore, the evidence presented established that the Department corrected the action that Claimant requested a hearing on, thus, there remains no issue left to be resolved. BAM 600 (April 2015), pp. 2-6. As such, Claimant's hearing request with respect to MA is **DISMISSED for lack of jurisdiction**.

FAP

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.

In this case, Claimant requested a hearing concerning what she believed to be the closure of her FAP case. At the hearing, the Department testified that Claimant's FAP case had not recently closed but that for an unexplained reason, her FAP case had been in pending status since November 2014. The Department did confirm that Claimant had not received any FAP benefits since November 2014, which would support Claimant's belief that her case closed, as the Department acknowledged that there was no notice sent to Claimant concerning her FAP eligibility from November 2014, through her hearing request date.

The Department representative present for the hearing stated that after receiving Claimant's hearing request, the Department reran Claimant's FAP eligibility on April 24, 2015, and determined that for the period of November 2014, ongoing, Claimant was eligible for FAP benefits in the amount of \$194 for a group size of 1, as Claimant was ineligible for FAP due to a child support disqualification. (Exhibit B, p. 11).

Additionally, the custodial parents of children must comply with all requests for action or information needed to establish paternity and/or obtain child support on behalf of children for whom she receives assistance, unless a claim of good cause for not cooperating has been granted or is pending. BEM 255 (October 2014), p. 1. A client's cooperation with paternity and obtaining child support is a condition of FAP eligibility. BEM 255, pp. 1, 9-13. Cooperation is required in all phases of the process to establish paternity and obtain support and includes contacting the support specialist when requested and providing all known information about the absent parent, among other things. BEM 255, p 9. Any individual required to cooperate who fails to cooperate without good cause may result in group ineligibility or member disqualification for FAP. BEM 255, pp. 9-13.

In this case, the OCS representative testified that on March 28, 2014, and April 26, 2014, contact letters were sent to Claimant informing her to contact OCS and provide information regarding the noncustodial parent of her child. On May 22, 2014, Claimant was placed in non-cooperation with child support requirements, as she had not provided any information to OCS. (Exhibit C). The OCS representative stated that since June 2014, Claimant has been interviewed six times by OCS and has offered different and/or conflicting information concerning how her child was conceived and who the absent parent is. The OCS representative stated that Claimant initially informed OCS that her child was conceived after a one night stand while she was drunk and that she did not have any information concerning the absent father. The OCS representative stated that

during another interview with Claimant, she indicated that her child was conceived with a sperm donor, that she and the donor had sexual intercourse, but that she did not have any information on the donor, as she found him through an online website and they just met that one night. During a third interview with OCS, Claimant again changed her story and indicated that she and the donor did not have sexual intercourse, but rather, she just met up with him and he provided her with a genetic sample. The OCS stated that based on the conflicting stories provided by Claimant and the OCS policy concerning assisted reproductive technology (ART), because Claimant indicated that she had sexual intercourse with the donor, the Department and OCS required that she provide additional information in order for Claimant to be in cooperation with child support requirements. (Exhibit D, p. 6).

At the hearing, Claimant stated that she told the OCS that she did not have sexual intercourse with the donor and that he only provided her with a genetic sample because her daughter had a doctor appointment and she did not want her daughter's MA benefits to be terminated.

Claimant and her partner testified that they visited a website called "██████████" and found a posting for a free sperm donor who they contacted via email. Claimant testified that the donor replied via email and provided her with his age, physical description and some of his health history information. Claimant testified that he also provided her with a phone number and stated that they met at a hotel in Detroit and had sexual intercourse, however, she was intoxicated. Claimant and her partner stated that they had planned on meeting up with the donor after nine months so that the donor could give up his rights, but the email and phone number were no longer working. Claimant testified that the only other information that she had on the donor was that his nickname was "██████████" and that he possibly lived in Toledo, Ohio. Claimant did not present any of the emails or any other documentation to support her testimony that her child was conceived by a method of ART as recognized by OCS policy. Therefore, Claimant must provide additional information to OCS to establish paternity for the child and to be in cooperation the Department's child support reporting requirements. Because Claimant failed to provide sufficient information concerning the absent father and based on the conflicting information provided to OCS, the Department properly determined that Claimant was ineligible for FAP on the basis that she failed to comply with child support requirements.

With respect to Claimant's FAP benefits in the amount of \$194 monthly since November 2014, the Department did not present sufficient evidence to establish that Claimant was properly supplemented or that the missed benefits she was entitled to receive for November 2014, ongoing were paid.

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 determined that Claimant was ineligible for FAP benefits but failed to satisfy its burden of showing that it acted in accordance with

Department policy when it did not establish that Claimant was supplemented for her lapse in FAP benefits.

DECISION AND ORDER

Accordingly, the hearing request with respect to MA is **DISMISSED** and Department's FAP decision is **AFFIRMED IN PART** with respect to the determination of Claimant's ineligibility for FAP based on a child support disqualification and **REVERSED IN PART** with respect to the failure to supplement Claimant for a lapse in FAP benefits from November 2014, ongoing.

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. Issue FAP supplements to Claimant for any benefits that she was entitled to receive but did not from November 1, 2014, ongoing; and
2. Notify Claimant in writing of its decision.



Zainab Baydoun
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **5/26/2015**

Date Mailed: **5/26/2015**

ZB / 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 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

CC: [REDACTED]