



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
Christopher Seppanen
Executive Director

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: July 27, 2016
MAHS Docket No.: 16-008627
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Darryl Johnson

HEARING DECISION

Following Petitioner'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 July 26, 2016, from Lansing, Michigan. The Petitioner appeared on her own behalf. The Department of Health and Human Services (Department) was represented by Family Independence Manager [REDACTED]. The Office of Child Support (OCS) was represented by Lead Worker [REDACTED].

ISSUE

Did the Department properly close Petitioner's Medical Assistance (MA) due to non-cooperation 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. Petitioner and her two children were on-going recipients of MA.
2. One of her children, a son, was born on [REDACTED], before Petitioner was married.
3. On June 26, 2015, the OCS mailed to Petitioner a Final Customer Contact Letter (Exhibit 1 Pages 8-9) instructing her to call the OCS within 14 days and give information regarding the son's father.

4. On July 23, 2015, the OCS mailed to Petitioner a Noncooperation Notice (Pages 6-7) informing her that she had failed to cooperate with the OCS, and that she would see a reduction on her benefits or a case closure of her benefits unless she had a valid good-cause reason.
5. On March 8, 2016, the Department mailed a Health Care Coverage Determination Notice (Exhibit 2 Pages 2-4) informing her that her children would continue to be eligible for MA, but her MA was only available from March 1, 2015 through March 31, 2015.
6. On April 21, 2016, the OCS mailed to Petitioner a letter (Page 4) instructing her to call the OCS "and provide the following information needed for your child support case: Other."
7. On May 24, 2016, the OCS mailed to her a Supplemental Hearing Summary (Page 2), saying she had failed to cooperate with the OCS.
8. The Department's witness testified that Petitioner's MA ended as of June 30, 2015.
9. Petitioner testified that she had continued to receive MA until some time in 2016 when she was unable to get a prescription filled for herself.
10. The Department's witness testified that no notice was ever mailed to Petitioner to inform her that her MA was closed.
11. On May 2, 2016, Petitioner contacted the OCS via telephone and provided the details that she could recall regarding the father of her son, approximately 16 years after she became pregnant by the father.
12. On May 19, 2016, Petitioner requested a hearing, protesting the closure of her MA.

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 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.

In this case, Petitioner's MA was closed on the basis that she was found by the OCS to not be in compliance with the OCS because she had not provided sufficient information for the OCS to locate the child's father. However, the Department acknowledged that she was not given proper notice prior to the closure. Furthermore, the OCS acknowledged that Petitioner had called and provided them with information regarding the child's father. The OCS's witness gave several details that Petitioner had provided regarding the father including his first name, body type, hair color, eye color, race, approximate age, description of his car, and the place where he had worked.

The Department's philosophy and policy with respect to child support cooperation is found in BEM 255 (4/1/15).

"Families are strengthened when children's needs are met. Parents have a responsibility to meet their children's needs by providing support and/or cooperating with the department, including the Office of Child Support (OCS), the Friend of the Court (FOC) and the prosecuting attorney to establish paternity and/or obtain support from an absent parent." "The custodial parent or alternative caretaker 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 they receive assistance, unless a claim of good cause for not cooperating has been granted or is pending."

When it comes to FIP, CDC Income Eligible, MA and FAP,

"Failure to cooperate without good cause results in disqualification. Disqualification includes member removal, as well as denial or closure of program benefits, depending on the type of assistance (TOA); see Support Disqualification in this item."

At page 9 of BEM 255, the applicant's responsibility to cooperate with respect to child support is described more fully:

Cooperation is required in all phases of the process to establish paternity and obtain support. It includes **all** of 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 penalties for failure to cooperate are found at page 13. The penalty in MA is: “Failure to cooperate without good cause results in member disqualification. The adult member who fails to cooperate is not eligible for MA when both of the following are true:

- The child for whom support/paternity action is required receives MA.
- The individual and child live together.”

BAM 220 (7/1/16) p. 21 says, “Bridges generates a combined DHS-1605, Notice of Case Action, for all programs. A DHS-1606, Health Coverage Notice, is generated for Medicaid. Other notices are either generated by Bridges or must be manually completed and sent in the specific circumstances listed below.” The Department is obligated to provide notice when negative action is taken. In this case, there is no evidence that the Department gave notice when negative action was taken on her MA. A notice went out on March 8, 2016, telling her that her MA was no longer in place as of March 31, 2015 – almost a year earlier. At that point, no negative action HAD been taken – at least not any action that was predicated upon her cooperation with the OCS. In fact, the OCS did not even find her in noncompliance until July 23, 2015 and there should not have been any sanction prior to that date.

Just because the Department was not able to find the father with the information she provided does not mean that she is withholding information from the Department. As stated in *Black v Dep’t of Social Services*, 195 Mich App 27 (1992), the State must have a plan requiring recipients to cooperate with the State in establishing the paternity of a child born out of wedlock if benefits are sought for that child. “The plan must also ‘specify that cooperate includes . . . [p]roviding information, or attesting to the lack of information, under the penalty of perjury.’ 45 CFR 232.12(b)(3).” *Black* at 30-31. The State has the burden of proving noncooperation, and to do so, it “must show both that the mother failed to provide requested information and also ‘[t]hat she knew the requested information.’” *Id.*

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 sanctioned Petitioner for noncompliance with the OCS by closing her MA. It is further found that the information Petitioner has provided demonstrates her compliance with the OCS.

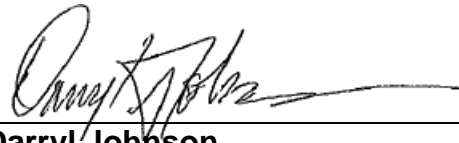
DECISION AND ORDER

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 Petitioner's MA benefit eligibility, effective April 1, 2015;
2. Take steps to see that Petitioner's OCS sanction is deleted from Bridges.

DJ/mc



Darryl Johnson
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

NOTICE OF APPEAL: A party may appeal this Order in circuit court within 30 days of the receipt date. A copy of the circuit court appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Order if the request is received by MAHS within 30 days of the date the Order was issued. The party requesting a rehearing or reconsideration must provide the specific reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088; 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

DHHS

[REDACTED]

Department Representative

[REDACTED]

Petitioner

[REDACTED]