

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF: [REDACTED],
Claimant

Reg. No.: 2010-22347
Issue No.: 3008, 3014, 3052
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
March 25, 2010
Wayne County DHS (58)

ADMINISTRATIVE LAW JUDGE: Jan Leventer

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to Michigan Compiled Laws (MCL) 400.9 and 400.37 and Claimant's request for a hearing. After due notice, a telephone hearing was conducted from Detroit, Michigan, on March 25, 2010. Claimant appeared and testified. On behalf of the Department of Human Services (DHS), [REDACTED], [REDACTED], and [REDACTED], appeared and testified.

ISSUE

Whether DHS properly terminated Claimant's Food Assistance Program (FAP) benefits by excluding Claimant's daughter [REDACTED] from the FAP recipient group?

FINDINGS OF FACT

The Administrative Law Judge, based on competent, material and substantial evidence in the record and on the entire record as a whole, finds as fact:

1. Claimant began receiving FAP benefits of \$249 for herself and her daughter, [REDACTED], on or about July 1, 2009.
2. At some time in the following two months, Claimant *and* her daughter discovered that [REDACTED] was eight months pregnant.
3. The phone number for the child's father was recorded in a cell phone that [REDACTED] had previously lost, before learning she was pregnant.
4. Claimant and her daughter had no means to contact the baby's father and, to the best of their knowledge, he is unaware that he has a baby girl, [REDACTED].
5. After the baby was born, [REDACTED] with the DHS Office of Child Support (OCS), contacted Claimant by phone and spoke to both Claimant and [REDACTED].
6. OCS has the father's name, [REDACTED].
7. [REDACTED] asked [REDACTED] to provide the father's name, address and Social Security Number.
8. [REDACTED] told [REDACTED] she did not have any information.
9. Claimant also spoke to [REDACTED] and told her they did not have the information but would be glad to provide it to her if they did.
10. On September 17, 2009, OCS issued a "Noncooperation Notice" to [REDACTED], stating that she failed to respond to two letters asking her to contact [REDACTED] at OCS, and that she failed to provide [REDACTED] with the full legal name, date of birth, Social Security Number, last known address, last known employer, and physical description of the noncustodial parent.

11. Neither Claimant nor [REDACTED] received any letters from OCS. The dates of the letters are not set forth in the “Noncooperation Notice.”
12. [REDACTED] was unable to reach [REDACTED] at OCS to verify any information.
13. Effective January 1, 2010, DHS excluded [REDACTED] from Claimant’s FAP group, thereby reducing Claimant’s FAP group size by one person.
14. Claimant’s countable income exceeds the income limit for a group of one person.
15. Claimant filed a request for a hearing on December 21, 2009.

CONCLUSIONS OF LAW

The Food Assistance Program (FAP), formerly known as the Food Stamp Program, was established by the Food Stamp Act of 1977 and is implemented by the Federal regulations found in Title 7 of the Code of Federal Regulations (CFR). DHS administers FAP pursuant to MCL 400.10 *et seq.* and Michigan Administrative Code Rules 400.3001-3015. The DHS FAP policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Reference Tables Manual (RFT). These manuals are available online at www.mich.gov.

BEM Item 255, “Child Support,” states that DHS’ philosophy is:

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)...to establish paternity and/or obtain support from an absent parent. BEM 255, p. 1.

DHS’ policy is:

Clients 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. *Id.* (Bold print added for emphasis.).

If there is no good cause, such as emotional or physical harm, the client “must cooperate.” *Id.*, pp. 2-3, 5.

BEM 255 states later on page 8:

Cooperation is a condition of eligibility. The following individuals who receive assistance for themselves or on behalf of a child are required to cooperate in establish paternity and obtaining support, unless good cause has been granted or is pending:

Grantee (Head of Household) and spouse.

Specified relative/individual acting as a parent and spouse.

Parent of the child for whom paternity and/or support action is required.

Cooperation is required in all phases of the process to establish paternity and obtain support. It includes **all** of the following [bold print in original]:

Contacting the SS [Support Specialist] when requested.

Providing all **known** information about the absent parent. (Bold print added for emphasis.).

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 blood tests. *Id.*, p. 8.

I conclude that Claimant and her daughter cooperated fully with OCS and DHS by providing all of the information they had. I am persuaded that Claimant and her daughter did not know of the pregnancy until long after [REDACTED] cell phone with the father’s phone number was lost. I am persuaded that they cooperated to the extent that they gave the father’s name to OCS, as I cannot determine from the testimony that there is any other way that OCS could have

obtained it. Based on their testimony, and the fact that the actual dates of the two alleged OCS letters are not provided, I believe that they did not receive two letters from OCS.

I conclude that BEM 255 requires customers and group members to provide only known information. I conclude that Claimant and her daughter met the cooperation requirement. I reject the conclusion that they were uncooperative as their testimony about the letters and the phone call is credible and unrebutted and I accept it.

I REVERSE the DHS termination of Claimant's FAP benefits. I conclude that Claimant and her daughter cooperated with DHS and its OCS staff. I conclude BEM 255 requires DHS to include Claimant's daughter, [REDACTED], in the FAP recipient group.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, REVERSES DHS' termination of Claimant's FAP benefits. DHS is hereby Ordered to recalculate Claimant's group composition to include her daughter, [REDACTED], effective January 1, 2010, and in accordance with all DHS policies and procedures.



Jan Leventer
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: April 7, 2010

Date Mailed: April 7, 2010

NOTICE: Administrative Hearings may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. Administrative Hearings will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the mailing of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the receipt date of the rehearing decision.

JL/pf

cc:

