

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2010-53278
Issue No.: 1003
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: December 2, 2010
Wayne County DHS (57)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the claimant's request for a hearing. After due notice, a telephone hearing was held on December 2, 2010. The claimant appeared and testified. On behalf of Department of Human Services (DHS), [REDACTED], Manager, and [REDACTED], Specialist, appeared and testified.

ISSUE

Whether DHS properly disqualified Claimant due to a failure to cooperate with obtaining child support resulting in termination of Claimant's Family Independence Program (FIP) benefits and reduction in Food Assistance Program (FAP) benefits.

FINDINGS OF FACT

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

1. Claimant was an ongoing FAP and FIP benefit recipient.
2. On 6/25/09, Claimant's Benefit Specialist received a Noncooperation Notice (Exhibit 1) from Claimant's Child Support Specialist (CSS).
3. The Noncooperation Notice indicated that Claimant's noncooperation with child support was based on a failure to respond to two letters from the CSS.
4. The Noncooperation Notice also specifically identified Claimant's failure to identify the father of one of Claimant's children, [REDACTED], as the basis for noncooperation.

5. On 5/18/10, DHS terminated Claimant's FIP benefits and reduced Claimant's FAP benefits due to the lack of cooperation with Claimant's CSS effective 6/2010.
6. Claimant requested a hearing on 7/26/10 disputing the termination of FIP benefits and reduction in FAP benefits.

CONCLUSIONS OF LAW

The Food Assistance Program (formerly known as the Food Stamp Program) is established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations (CFR). The Department of Human Services (formerly known as the Family Independence Agency) administers the FAP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3001-3015.

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 8 USC 601, *et seq.* The Department of Human Services (formerly known as the Family Independence Agency) administers the FIP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3101-3131. The FIP program replaced the Aid to Dependent Children (ADC) program effective October 1, 1996.

Department policies for FAP and FIP benefits are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT). Office of Child Support (OCS) policies are found in the Combined IV-D Policy Manual (4DM).

Federal and state laws and regulations require that applicants and recipients of FIP and FAP benefits cooperate with OCS in obtaining child support as a condition of benefit eligibility. 4DM 115 at 1. The goal of the cooperation requirement is to obtain support. OCS and DHS policy is to find a client out of compliance with the cooperation requirement only as a last resort. Information provided by the client provides a basis for determining the appropriate support action. *Id.* Cooperation from the client will enhance and expedite the process of establishing paternity and obtaining support. *Id.*

Cooperation includes, but is not limited to, the following: identifying the non-custodial parent or alleged father, locating the non-custodial parent (including necessary identifying information and whereabouts, if known), appearing at reasonable times and places as requested to provide information or take legal action (e.g., appearing at the office of the Support Specialist, the Prosecuting Attorney, or the Friend of the Court, or as a witness or complainant at a legal proceeding) and providing all known, possessed

or reasonably obtainable information upon request which relates to establishing paternity and /or securing support. *Id at 2*. Non-cooperation exists when: a client willfully and repeatedly fails or refuses to provide information and/or take an action resulting in delays or prevention of support action. *Id*.

BEM 255 also describes the importance of child support and its cooperation requirements, "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." BEM 255 at 1. DHS regulations further mandate, "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*. The support specialist determines cooperation for required support actions. *Id at 8*.

The CSS is an integral part of establishing noncooperation. DHS regulations recognize the importance of having CSS participation within the administrative hearing process. For support hearings, DHS regulations indicate that the CSS serves as a witness for DHS and should be prepared to:

- Cite manual items applicable to the issue(s) and read relevant manual sections into the record.
- Testify about facts in the case. This includes first hand knowledge, general practices and information obtained from third party sources (e.g., prosecutors, friends of the court).
- Introduce into evidence any document which supports the facts in the case. The type of documentation needed will depend on the specific situation. CSM 170 at 3.

In the present case, DHS failed to present any first-hand evidence from Claimant's CSS. DHS attempted to establish Claimant's noncooperation with child support by submission of a Noncooperation Notice (Exhibit 1) dated 6/25/09 which stated that Claimant failed to respond to two letters from the CSS. No evidence was submitted establishing what letters were allegedly sent to Claimant, why the letters were relevant to establishing paternity for one of Claimant's children or how Claimant failed to respond.

Claimant provided some testimony regarding the basis of noncompliance. Claimant stated that she believed the basis of noncooperation was based on failing to provide

specific information about her child's biological father and not a failure to respond to two letters from her CSS. Claimant stated that she provided her CSS with the name and date of birth of her child's biological father but was told that this was not enough information. Claimant also testified that the father was a friend of her family but she was not able to provide any additional information regarding the potential biological father. Claimant was not very persuasive in explaining why she was unable to provide additional information for a person that was supposedly still in contact with her family members. Nevertheless, in the absence of testimony from Claimant's CSS, there is simply an insufficient amount of evidence to determine that Claimant failed to cooperate in the child support process. Based on the evidence provided, it is possible that Claimant was uncooperative in identifying her child's father; the undersigned lacks sufficient information to make this finding. There is sufficient evidence that DHS failed to establish that Claimant was uncooperative in the child support process. Accordingly, the FIP benefit termination and FAP benefit reduction must be overturned.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly terminated Claimant's FIP benefits and reduced Claimant's FAP benefits effective 6/2010. It is ordered that DHS reinstate Claimant's FIP and FAP benefits to the amounts Claimant would have received but not for the child support disqualification to the date of FIP benefit closure and FAP benefit reduction. DHS shall supplement Claimant for any benefits not received as a result of the improper disqualification. DHS shall also delete the child support disqualification from Claimant's disqualification history. The actions taken by DHS are REVERSED.

Christian Gardocki

Christian Gardocki
Administrative Law Judge
For Ismael Ahmed, Director
Department of Human Services

Date Signed: 12/13/2010

Date Mailed: 12/13/2010

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.

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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.

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