

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.: 2010-54821  
Issue Nos.: 1025, 3008  
Case No.: [REDACTED]  
Load No.: [REDACTED]  
Hearing Date: December 2, 2010  
DHS County: Wayne (76)

**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 [REDACTED]' request for a hearing. After due notice, a telephone hearing was held on December 2, 2010. Claimant appeared and testified. [REDACTED], appeared and testified on behalf of the Department of Human Services (DHS).

**ISSUE**

Whether DHS Office of Child Support (OCS) requested information regarding paternity and child support from Claimant?

**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. On August 1, 2009, Claimant began receiving Family Independence Program (FIP) and Food Assistance Program (FAP) benefits from DHS, for a family of six people.
2. On February 6, 2010, Claimant gave birth to a son, [REDACTED].
3. After Claimant's son, Antwon, was born, Claimant contacted her DHS Specialist, [REDACTED], and requested that he be added to her family group FIP and FAP benefits. She also gave [REDACTED] father's name ([REDACTED]), Social Security Number, date of birth, and the father's address, which was the same as Claimant's address.

4. [REDACTED] is also a DHS benefits recipient.
5. On July 29, 2010, OCS issued a notice that Claimant was not cooperating with OCS in regard to providing information about her child, [REDACTED], father.
6. On August 2, 2010, Claimant filed a Request for Hearing with DHS. The notice contained the father's name and stated that his Social Security Number, date of birth, and home address were already provided to [REDACTED].
7. On August 9, 2010, DHS issued a Notice of Case Action, stating that Claimant was not in cooperation with OCS with regard to her son, [REDACTED].
8. On August 30, 2010, Claimant filed a second Request for Hearing with DHS. The August 30 hearing request contained the father's name and stated that his Social Security Number, date of birth, and current address were previously provided to DHS.
9. As of September 1, 2010, DHS terminated Claimant's FIP benefits and reduced her FAP benefits.

#### **CONCLUSIONS OF LAW**

FIP was established by the U.S. Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 8 United States Code Sec. 601 *et seq.* DHS administers FIP pursuant to MCL 400.10 *et seq.*, and Michigan Administrative Code Rules (MACR) 400.3101-400.3131. DHS' FIP policies and procedures are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Reference Tables (RFT). These manuals are available online at [www.michigan.gov/dhs-manuals](http://www.michigan.gov/dhs-manuals).

FAP was established by the U.S. Food Stamp Act of 1977 and is implemented by Federal regulations found in Title 7 of the Code of Federal Regulations. DHS administers FAP pursuant to MCL 400.10 *et seq.* and MACR 400.3001-400.3015. DHS' FIP policies are found in BAM, BEM and RFT. *Id.*

The manuals are the policies and procedures that DHS officially created for its own use. I look to the manuals to determine what policies and procedures DHS must follow in providing benefits to its customers. I agree with DHS that the manual item that is applicable in this case is BEM 255, "Child Support."

BEM 255 states that the Department's Philosophy is as follows:

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, p. 1.

Next, the Department's Policy is stated in BEM 255 as follows:

**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).

I have reviewed all of the testimony and the evidence in this case as a whole. I find there is nothing in the record to indicate that DHS ever requested information from Claimant. Indeed, the record indicates that Claimant provided the information to DHS three times of her own accord and without being asked for it. She first provided the information after the child was born, and provided it in writing on two more occasions in her August 2 and August 30 Requests for Hearing.

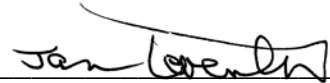
Based on the record before me in its entirety, I find that DHS erred in this case in finding that Claimant was noncooperative and in terminating and reducing her FIP and FAP benefits respectively. I reach this decision first, because DHS has not established on the record that it ever requested her cooperation and, second, because the record reflects that Claimant voluntarily assisted DHS three times yet her efforts were not acknowledged.

I find and determine that DHS violated Department Policy as stated in BEM 255. I find that Claimant did not fail to cooperate with any DHS request for paternity and child support information, because DHS never made such requests to her. I further find and determine that DHS' actions in this case violate the Department Philosophy by failing to acknowledge the extent to which the children's needs were being met by the parents in this family group.

I find and determine that DHS is REVERSED. IT IS ORDERED that DHS shall restore and reinstate Claimant's FIP and FAP benefits to appropriate levels consistent with Claimant's family group size, including Claimant's son, [REDACTED], and issue any appropriate supplemental retroactive payments in accordance with DHS policies and procedures.

**DECISION AND ORDER**

The Administrative Law Judge, based on the above findings of fact and conclusions of law, finds that DHS' action was erroneous and shall be REVERSED. IT IS ORDERED that DHS shall reinstate Claimant's FIP and FAP benefits to appropriate levels for Claimant's current family group composition, and provide any supplements in accordance with DHS policies and procedures.



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

Date Signed: December 8, 2010

Date Mailed: December 9, 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:

