

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2011-15917
Issue No.: 2006; 3008
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: February 23, 2011
Macomb County DHS

ADMINISTRATIVE LAW JUDGE: Michael J. Bennane

AMENDED HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9; MSA 16.409 and MCL 400.37; M SA 16.437 upon the Claimant's request for a hearing. After due notice a telephone hearing was held on February 23, 2011. The Claimant personally appeared and testified.

ISSUE

Did the Department of Human Services (Department) properly close the Claimant's Medical Assistance (MA), and reduce her Food Assistance (FAP)?

FINDINGS OF FACT

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

1. On December 1, 2010, the Department closed the Claimant's MA and removed her from the FAP group thus reducing the Claimant's FAP benefits, because the Claimant had been found to be non-cooperative with the Office of Child Support (OCS).
2. On November 22, 2010, the Claimant filed a request for a hearing.

CONCLUSIONS OF LAW

The MA program is established by Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (PRM).

FAP (formerly known as the Food Stamp (F S) program) is established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of CFR. The Department administers the FAP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3001-3015. Department policies are found in BAM, BEM and PRM.

The Department received information that the Claimant had failed to cooperate with the Office of Protective Services.

At the hearing the Claimant testified that she has been in cooperation.

OCS was unavailable and therefore unable to provide any evidence, and there was no evidence of the Claimant's lack of cooperation presented at the hearing. I find the Claimant's testimony to be credible.

As additional information for the Department:

In *Black v Dept of Social Services*, 195 Mich App 27 (1992), the Court of Appeals addressed the issue of burden of proof in a non-cooperation finding. Specifically, the court in *Black* ruled that to support a finding of non-cooperation, the agency has the burden of proof to establish that the mother (1) failed to provide the requested verification and that (2) the mother knew the requested information. The *Black* court also emphasized the fact that the mother testified under oath that she had no further information and the agency failed to offer any evidence that the mother knew more than she was disclosing. *Black* at 32-34.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, REVERSES and ORDERS the Department to re-register the Claimant's FAP application back to the December 1, 2010 closing date and replace any lost benefits if appropriate.



Michael J. Bennane
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: June 17, 2011

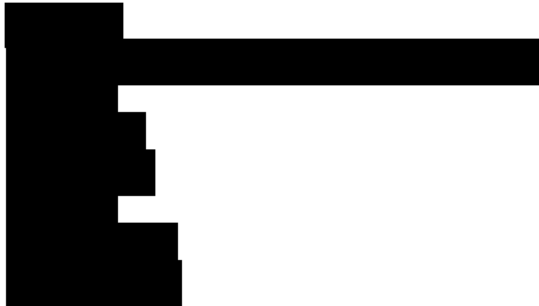
Date Mailed: June 20, 2011

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 receipt 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.

MJB/cl

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