

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.: 20111892
Issue No.: 3008
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: November 8, 2010
Oakland County DHS (02)

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 November 8, 2010. The claimant appeared and testified. On behalf of Department of Human Services (DHS), [REDACTED], Manager, appeared and testified.

ISSUE

Whether DHS properly reduced Claimant's Food Assistance Program (FAP) benefits due to a failure by Claimant's FAP group to cooperate with obtaining child support.

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 recipient.
2. Claimant received \$461 in FAP benefits in 8/2010.
3. Claimant's child's is a household member and FAP group member.
4. On an unspecified date, the Office of Child Support (OCS) notified DHS that Claimant's child was non-cooperative in obtaining child support.
5. On 8/17/10, based on the information provided by the child support specialist, DHS reduced Claimant's FAP benefits to \$348 to be effective 9/1/10.

6. Claimant requested a hearing on 8/17/10 disputing the FAP benefit reduction based on a child support disqualification.

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. Department policies 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 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.*

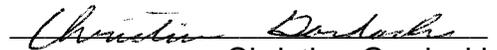
BEM 255 also describes the importance of child support and its cooperation requirements, "Families are strengthened when children's needs are met. Parents have a responsibility to meet their children's needs by providing support and/or cooperating with the department including the Office of Child Support (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.*

In the present case, DHS reduced Claimant's FAP benefits based on an OCS finding that Claimant's child was non-cooperative with obtaining child support. DHS credibly testified that OCS found Claimant's child non-cooperative with obtaining child support, and that Claimant's child could be found cooperative if she attended a court appointment on 10/13/10. DHS had no underlying knowledge of what made Claimant's child non-cooperative with obtaining child support. OCS was not available for the hearing to provide first-hand knowledge of the alleged lack of cooperation. Claimant's testimony was credible and did not assist DHS in establishing that non-cooperation occurred.

Without any evidence to support the basis for non-cooperation, the undersigned cannot uphold the child support disqualification or the resulting FAP reduction. Accordingly, the DHS determination that Claimant's child was non-cooperative with child support is reversed as is the reduction in FAP benefits.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly reduced Claimant's FAP benefits effective 9/1/10. It is ordered that DHS remove Claimant's child's child support disqualification from Claimant's child's disqualification history and that DHS reinstate Claimant's FAP benefit amount to \$461 effective 9/1/10. The actions taken by DHS are REVERSED.


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

Date Signed: November 10, 2010

Date Mailed: November 10, 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 60 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 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.

CG/hw

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