

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201132894
Issue No.: 1025
Case No.: [REDACTED]
Hearing Date: June 6, 2011
Wayne County DHS (19)

ADMINISTRATIVE LAW JUDGE: Susan C. Burke

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon Claimant's request for a hearing. After due notice, a telephone hearing was held on June 6, 2011. Claimant appeared and testified. The Department of Human Services (Department) was represented by [REDACTED], Assistance Payments Worker, and [REDACTED], FIM.

ISSUE

Was the Department correct in its decision to close Claimant's Child Development and Care (CDC) case due to refusal to cooperate in child support matters?

Was the Department correct in its calculation of Claimant's 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 CDC and FAP recipient.
2. The Department closed Claimant's CDC case on or about [REDACTED] and again on or about [REDACTED] due to refusal to cooperate in child support matters.
3. On [REDACTED] Claimant requested a hearing, protesting the negative action.

4. At the hearing, the Department presented no substantiating documentation or testimony regarding refusal to cooperate in child support matters.

CONCLUSIONS OF LAW

The Food Assistance Program (FAP) 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 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 Program Reference Manual (PRM).

The CDC program is established by Titles IVA, IVE and XX of the Social Security Act, the Child Care and Development Block Grant of 1990, and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The program is implemented by Title 45 of the Code of Federal Regulations, Parts 98 and 99. The Department provides services to adults and children pursuant to MCL 400.14(1) and MAC R 400.5001-5015. Department policies are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (PRM).

Regulations governing the Office of Child Support (OCS) can be found in the IV-D Manual (4DM).

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. Failure to cooperate without good cause results in disqualification. Disqualification includes member removal, denial of program benefits, and/or case closure, depending on the program. BEM 255.

Non-cooperation exists when a client, without good cause, willfully and repeatedly fails or refuses to provide information and/or take an action resulting in delays or prevention of support action. 4DM 115.

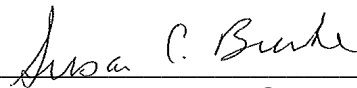
Before finding a client non-cooperative, the Support Specialist must establish and document that the client failed and/or refused to provide known or obtainable information and/or to take an action without an acceptable reason or excuse. 4DM 115. The goal of the cooperation requirement is to obtain support. Support specialists should find non-cooperation only as a last resort. There is no minimum information requirement. 4DM 115.

Several factors may affect a client's ability to remember or obtain information. In evaluating cooperation, the Support Specialist should consider such factors as client's marital status, duration of relationship and length of time since last contact with the non-custodial parent. A client who was married to the non-custodial parent or knew the putative father for several months can reasonably be expected to provide identifying and location information. The extent and age of location information obtainable may be affected by how long it has been since the parties last lived together or had personal contact. 4DM 115.

In the present case, the Department did not call a witness at the hearing from the Office of Child Support, nor did it present any documentation supporting Claimant's alleged refusal to cooperate with regard to child support. Without detailed proof of noncooperation, this Administrative Law Judge cannot find that Claimant failed to cooperate with respect to child support. In addition, Claimant testified credibly that she did cooperate with the child support specialist. Based on the above discussion, the Department's decision to close Claimant's CDC case due to refusal to cooperate in child support matters was not correct. In addition, the Department removed Claimant from the FAP case due to refusal to cooperate, and re-determined Claimant's FAP benefits. Since Claimant is not found to have refused to cooperate, the Department's calculation of FAP benefits without Claimant being considered as part of the group was not correct.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department was not correct in its decision to close Claimant's CDC case and in its calculation of Claimant's FAP benefits, and it is ORDERED, therefore, that its decision is REVERSED. It is further ORDERED that Claimant's CDC case shall be reinstated and restored effective [REDACTED] 1 and onward, if Claimant is otherwise eligible, and all missed or increased benefits shall be made in the form of supplemental payments. It is further ORDERED that the Department shall re-determine Claimant's FAP benefits, effective [REDACTED], based on Claimant's inclusion in the FAP group, and, if she is otherwise eligible, all missed or increased benefits shall be made in the form of supplemental payments.



Susan C. Burke
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

201132894/SCB

Date Signed: June 8, 2011

Date Mailed: June 8, 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 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.

SCB/hw

cc:

