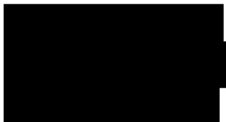



STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No: 201138906
Issue No: 3008
Case No: 
Hearing Date: July 20, 2011
Genesee County DHS

Administrative Law Judge: Mark A. Meyer

HEARING DECISION


This matter is before the undersigned Administrative Law Judge in accordance with MCL 400.9, MCL 400.37 and 1999 AC, R 400.903. Claimant requested a hearing on June 21, 2011, and, after due notice, one was held on July 20, 2011. Claimant appeared at hearing and provided testimony. The Department of Human Services (the Department) was represented by agency personnel.

ISSUE

In dispute was whether the Department properly removed Claimant from her Food Assistance Program (FAP) benefits group, where she was determined to be in noncooperation with child support requirements.

FINDINGS OF FACT

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

1. At all times relevant to this matter, Claimant was receiving FAP benefits.
2. Claimant was part of a FAP group size of 3. (Department's Exhibit D-8.)
3. On June 6, 2011, the Office of Child Support (OCS) applied a noncooperation status on Claimant's case; this action pertained to Claimant's minor daughter. (Department's Exhibits D-1; D-2; D-3; D-4.)
4. As a result of this action, Claimant was removed from her FAP group, which resulted in a decrease of benefits to  per month. (Department's Exhibits D-2; D-3; D-6; D-8.)

5. From this action, Claimant requested a hearing to contest her removal from the FAP group. (Claimant's hearing request, dated June 21, 2011.)
6. Subsequent to the hearing in this matter, the Administrative Law Judge was informed that Claimant was presently in compliance with child support and that she was returned to the FAP group, effective August 1, 2011. At that time, her benefit level will be increased to [REDACTED] (Department's Exhibit D-8.)

CONCLUSIONS OF LAW

The hearing and appeals process for applicants and recipients of public assistance in Michigan is governed by 1999 AC, R 400.901 through 400.951, in accordance with federal law. An opportunity for hearing must be granted to an applicant who requests a hearing because his claim for assistance is denied or not acted on with reasonable promptness, and to any recipient who is aggrieved by Department action resulting in suspension, reduction, discontinuance, or termination of assistance. Rule 400.903(1). An applicant or recipient holds the right to contest an agency decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The Department must provide an administrative hearing to review the decision and determine its appropriateness. Bridges Administrative Manual (BAM) 600, p. 1.

Here, the Department was informed by the OCS that Claimant was determined to be in noncooperation regarding child support pertaining to her minor daughter. As a result of this determination, Claimant was removed from her FAP group, which resulted in a decrease in her FAP benefits. From this action, Claimant filed a request for hearing. A timely notice of hearing was subsequently issued.

FAP – formerly known as the Food Stamp Program – was established by the Food Stamp Act of 1977, 7 USC 2011, *et seq.*, as amended, and is implemented through federal regulations found in the Code of Federal Regulations, 7 CFR 273.1 *et seq.* The Department administers the FAP under MCL 400.10, *et seq.*, and Rules 400.3001 through 400.3015. Agency policies pertaining to the FAP are found in the BAM, Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT). The goal of the FAP is to ensure sound nutrition among children and adults. BEM 230B, p. 1.

Parents have a responsibility to meet their children's needs by providing support and/or cooperating with the Department including the 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.

Cooperation is a condition of eligibility for receiving FAP benefits. BEM 255, p. 7. The following individuals who receive assistance for themselves or on behalf of a child are required to cooperate in establishing paternity and obtaining support, unless good cause was granted or is pending:

- Grantee (head of household) and spouse.
- Specified relative/individual acting as a parent and spouse.
- Parent of the child for whom paternity and/or support action is required.

BEM 255, p. 7

There are two types of good cause:

- Cases in which establishing paternity/securing support would harm the child.
- Cases in which there is danger of physical or emotional harm to the child or client.

BEM 255, p. 3.

In the absence of good cause, cooperation is required in all phases of the process to establish paternity and obtain support. BEM 255, p.7.

Here, no good cause was granted, nor was a good cause claim pending. Moreover, based on the evidence presented, no good cause existed. Under BEM 255, Claimant was therefore required to cooperate with the OCS. She failed to do so.

For FAP, failure to cooperate without good cause results in disqualification of the individual who failed to cooperate. BEM 255, p. 11. That individual and his or her needs are removed from the FAP eligibility determination group for a minimum of one month. The remaining eligible group members continue to receive benefits. BEM 255, p. 11. A disqualified member is returned to the eligible group the month after cooperation or after serving the minimum one month disqualification, whichever is later. BEM 255, p. 12.

Here, the Department presented credible evidence that, for the June and July 2011 period, Claimant was in noncooperation with the OCS regarding her minor daughter. Claimant's testimony failed to sufficiently overcome this determination. Claimant was properly removed from her FAP benefits group. But, the agency also provided sufficient documentation establishing that at some point prior to the date of hearing, she became compliant with the child support requirements. Under BEM 255, p. 12, Claimant was therefore returned to her FAP benefits group, effective August 1, 2011.

DECISION AND ORDER

Based on the above findings of fact and conclusions of law, the Administrative Law Judge decides that the Department acted in accordance with established policy in removing Claimant from her FAP group for the period June 1, 2011, through July 31, 2011.

The Department's action is AFFIRMED.

It is SO ORDERED.

/s/ _____
Mark A. Meyer
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: July 25, 2011

Date Mailed: July 25, 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 60 days of the filing of the original request.

Claimant may appeal this decision and order to the circuit court for the county in which he/she resides within 30 days of the mailing of this 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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