

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

IN THE MATTER OF:



Reg. No.: 2011-46325
Issue No.: 3008
Case No.: [REDACTED]
Hearing Date: August 29, 2011
Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Susan 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 August 29, 2011 in Detroit, Michigan. Claimant appeared and testified. The Department of Human Services (Department) was represented by [REDACTED] FIM.

ISSUE

Was the Department correct in its decision to decrease Claimant's Food Assistance Program (FAP) benefits due to failure to cooperate with child support requirements?

FINDINGS OF FACT

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

1. Claimant was an ongoing recipient of FAP.
2. Claimant received a Judgment of Filiation on March 14, 2011.
3. The Office of Child Support placed a noncooperation notification on the Department's system on July 4, 2011.
4. Claimant attempted to contact her child support worker several times by phone, but he did not return her call.
5. The Department decreased Claimant's FAP benefits effective August 1, 2011 due to failure to cooperate with child support requirements.

6. Claimant requested a hearing on July 29, 2011, protesting the decrease in FAP benefits.

CONCLUSIONS OF LAW

The Food Assistance Program (FAP) (formerly known as the Food Stamp (FS) 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 CML 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 Bridges Reference Manual (BRM).

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.

BEM 255, p. 7 instructs:

Cooperation is required in all phases of the process to establish paternity and obtain support. It includes **all** of the following:

- Contacting the support specialist when requested.
- Providing all known information about the absent parent.
- Appearing at the office of the prosecuting attorney when requested.
- Taking any actions needed to establish paternity and obtain child support (including but not limited to testifying at hearings or obtaining blood tests).

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

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

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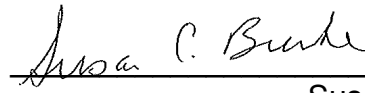
find non-cooperation only as a last resort. There is no minimum information requirement. 4DM 115.

In the present case, the Department offered no evidence from the Office of Child Support to support that Claimant did not cooperate with the Office of Child Support. On the other hand, Claimant presented credible evidence that she cooperated with the Office of Child Support by obtaining an Order of Filiation and by attempting to contact the Office of Child Support by phone several times, with no return call being made by the Office of Child Support. Without any proof by the Department that Claimant failed to cooperate with regard to child support, I cannot find that the Department was correct in its decision to decrease Claimant's FAP benefits due to failure to cooperate with child support requirements.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law decides that the Department was not correct in its decision to decrease Claimant's FAP benefits due to failure to cooperate with child support requirements, and it is therefore ORDERED that the Department's decision is REVERSED. It is further ORDERED that the Department shall:

1. Remove the negative action imposed on Claimant's FAP case on July 4, 2011.
2. Initiate restoration of Claimant's FAP benefits, effective August 1, 2011, if Claimant is otherwise eligible.
3. Issue supplemental payments for any missed or increased FAP benefits, effective August 1, 2011 and ongoing.



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

Date Signed: 9/1/11

Date Mailed: 9/1/11

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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.

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 of the rehearing decision.

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