

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.: 2011-8786  
Issue No.: 3008  
Case No.: [REDACTED]  
Hearing Date: January 3, 2011  
Wayne County DHS (35)

**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 January 3, 2011. The claimant appeared and testified. On behalf of Department of Human Services (DHS), [REDACTED], Specialist, appeared and testified.

**ISSUE**

Whether DHS properly disqualified Claimant due to a failure to cooperate with obtaining child support resulting in a reduction of 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 FAP benefit recipient.
2. In 12/2010, Claimant was eligible for \$516/month in FAP benefits.
3. On an unspecified date, DHS received a notice that Claimant was not cooperating with obtaining child support for her child, [REDACTED] (DOB 12/29/07).
4. After receiving the notice of noncooperation, DHS implemented a child support disqualification resulting in a reduction of Claimant's 1/2011 FAP benefit issuance to \$357/month.

5. On 11/29/10, Claimant requested a hearing disputing the reduction of FAP benefits for 1/2011 and contended that she was cooperative with obtaining child support.

### **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 FIP and 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 child support on behalf of a client. 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.* A finding of noncompliance is only to be used as a last resort. *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.

The CSS is an integral part of establishing noncooperation. DHS regulations recognize the importance of having CSS participation within the administrative hearing process. For support hearings, DHS regulations indicate that the CSS serves as a witness for DHS and should be prepared to:

- Cite manual items applicable to the issue(s) and read relevant manual sections into the record.
- Testify about facts in the case. This includes first hand knowledge, general practices and information obtained from third party sources (e.g., prosecutors, friends of the court).
- Introduce into evidence any document which supports the facts in the case. The type of documentation needed will depend on the specific situation. CSM 170 at 3.

In the present case, Claimant disputed a reduction of FAP benefits. The only basis for the reduction was a disqualification by DHS based on an alleged failure by Claimant to cooperate in obtaining child support.

It should be noted that being unable to identify a child’s father is not considered a lack of cooperation; purposely not identifying a child’s father is a basis for finding noncooperation. Very often it is difficult to distinguish between a mother who is genuinely unable to provide information concerning the father and a mother who is purposely not cooperating with identifying the father.

DHS failed to present any first-hand evidence of noncooperation from Claimant’s CSS. DHS did not even submit a Notice of Noncooperation from the CSS that would have notified DHS of the noncooperation. The only evidence concerning Claimant’s reporting of child support came from Claimant.

Claimant’s testimony concerning her cooperation was not particularly persuasive. She stated that she provided a name of the child’s father, [REDACTED], to her CSS. The undersigned cannot help but be skeptical when a common name like [REDACTED] is given as a name of a child’s father as this name would seem to be so common that DHS could not sufficiently narrow the search to a small enough group where further investigation methods (e.g. paternity testing) could be utilized; though without any contrary evidence of noncooperation, the undersigned cannot rely on this speculation as a basis to find a lack of cooperation.

Claimant also stated that she also provided potential addresses for [REDACTED] but she indicated that there were not residential addresses. She did not adequately clarify how she associated those residences to [REDACTED] if he did not live at those addresses. Despite Claimant's unpersuasive testimony concerning cooperating with child support, the undersigned was not presented with any evidence which rebutted her testimony; thus, it was the most reliable evidence presented. Without any evidence of non-cooperation, it can only be found that DHS failed to establish that Claimant was non-cooperative in obtaining child support. Accordingly, it is found that DHS erred in reducing Claimant's FAP benefits effective 1/2011.

It should be noted that DHS may continue pursuit of child support on behalf of Claimant. DHS may also make future determinations concerning Claimant's cooperation level.

**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 for 1/2011 based on Claimant allegedly failing to cooperate with obtaining child support. It is ordered that DHS remove the child support disqualification from Claimant's disqualification history, redetermine Claimant's 1/2011 (and future) FAP benefits based on the finding that Claimant was cooperative with child support and to supplement Claimant for any FAP benefits not received because of the improper disqualification. The actions taken by DHS are REVERSED.



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Christian Gardocki  
Administrative Law Judge  
For Duane Berger, Director  
Department of Human Services

Date Signed: 1/06/2011

Date Mailed: 1/06/2011

**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.

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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/jlg

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