

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

IN THE MATTER OF:



Registration. No: 2011-35536
2011-38817
Issue No: 1022; 1025
Case No: [REDACTED]
Hearing Date: July 21, 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 May 11, 2011, and June 14, 2011; after due notice, one was held on July 21, 2011. Claimant appeared at hearing and provided testimony. The Department of Human Services (the Department) was represented by agency personnel.

ISSUE

The issues in dispute were: (1) whether the Department properly closed Claimant's Family Independence Program (FIP) benefits case, effective June 1, 2011; and (2) whether the agency properly reduced Claimant's Food Assistance (FAP) group size from three to two, thereby reducing her benefit allotment, effective June 1, 2011.

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 both FIP and FAP benefits.
2. On April 27, 2011, the Department issued a notice of case action against Claimant, informing her that her FIP benefits case would close effective June 1, 2011, and that her FAP benefits allotment would decrease on the same date. The basis for this action was the agency's determination that Claimant was in uncooperative status with the Office of Child Support (OCS). (Department's Exhibit D-5.)

3. In response to the Department's action, Claimant filed two separate requests for hearing.¹ (Claimant's hearing requests, dated May 11, 2011, and June 14, 2011, respectively.)

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 a Department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The agency must provide an administrative hearing to review the decision and determine its appropriateness. Bridges Administrative Manual (BAM) 600, p. 1.

Here, the Department determined that Claimant was in noncooperation status with the OCS as of April 26, 2011. This determination resulted in the closure of Claimant's FIP benefits case and a reduction in her FAP benefits allotment. Claimant's requests for hearing followed.

The FIP was established under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, 8 USC 601, *et seq.* The Department administers the FIP in accordance with MCL 400.10, *et seq.*, and Rules 400.3101 through 400.3131. The FIP replaced the Aid to Dependent Children (ADC) program, effective October 1, 1996. Agency policies pertaining to the FIP are found in the BAM, Bridges Eligibility Manual (BEM), and program reference manuals. The program's purpose is to provide temporary cash assistance to support a family's movement to self-sufficiency. BEM 230A, p. 1.

FAP – formerly known as the Food Stamp Program – was established by the Food Stamp Act of 1977, 7 USC 2011, *et seq.*, and is implemented through federal regulations found in 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, BEM, and RFT. The goal of the FAP is to ensure sound nutrition among children and adults. BEM 230A.

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, and the prosecuting attorney's office to establish paternity or obtain support from an absent parent. BEM 255, p. 1. Moreover, the custodial parent or alternative caretaker of a child

¹ It appeared that because Claimant filed two separate hearing requests, two different register numbers were assigned. However, the issues in dispute in both matters are the same. For this reason, a consolidated decision and order is issued.

must comply with all requests for action or information needed to establish paternity or obtain child support on behalf of children for whom they receive assistance, unless a claim of good cause for not cooperating is granted or is pending. BEM 255, p. 1.

Failure to cooperate without good cause results in disqualification. Disqualification includes member removal, as well as denial or closure of program benefits. BEM 255, pp 1-2. Cooperation is a condition of eligibility. Grantees (i.e., head of household), specified relatives/individuals acting as a parent and spouse, and the parent of the child for whom paternity or support action is required are all required to cooperate in establishing paternity and obtaining support, unless good cause has been granted or is pending. BEM 255, p. 7. Simply put, 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).

BEM 255, p. 7.

Here, the Department received information from the OCS that Claimant was in non cooperative child support status, as of April 26, 2011. (See Department's Exhibit D-7.) Based on this information, and pursuant to policy, the agency notified Claimant that her FIP benefits case would close, effective June 1, 2011, and that her FAP benefits allotment would decrease beginning the same date. However, it appeared from the evidence presented that the OCS's non cooperative status determination was in error. In fact, her status was changed back to cooperative by the OCS, effective April 26, 2011. (See Department's Exhibit D-8.)

Recognizing this error, the Department informed Claimant on June 21, 2011, that her FAP group size would increase to three and her benefit allotment would increase to \$526.00 per month, effective July 1, 2011. (See Department's Exhibit D-6.) Further, the agency's representative at hearing testified that an attempt would be made to reinstate Claimant's FIP benefits case, effective June 1, 2011. Following the hearing, the administrative law judge was informed that this was, in fact, accomplished. (See Department's Exhibit D-4.)

DECISION AND ORDER

Based on the above findings of fact and conclusions of law, the Administrative Law Judge decides that the Department improperly closed Claimant's FIP benefit case and

decreased her FAP benefits allotment because the agency subsequently admitted that she was in cooperation with the Office of Child Support.

The Department did subsequently reinstate Claimant's FIP benefits case, effective June 1, 2011. That action is UPHELD.

However, the agency improperly reinstated Claimant's FAP group size to three, effective July 1, 2011. This portion of the Department's action is REVERSED. To the extent Claimant is otherwise entitled to such benefits, the FAP group size must be increased to three, effective June 1, 2011, the date it was erroneously reduced.

It is SO ORDERED.

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

Date Signed: 8/9/11

Date Mailed: 8/9/11

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.

Claimant may appeal this decision and order to the circuit court for the county in which 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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