

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

IN THE MATTER OF:



Reg. No. 2011-45133
Issue No. 1003, 3008
Case No. [REDACTED]
Hearing Date: September 8, 2011
Wayne County DHS (49)

ADMINISTRATIVE LAW JUDGE: Colleen M. Mamelka

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 conducted from Detroit, Michigan on Thursday, September 8, 2011. The Claimant appeared and testified. [REDACTED] appeared on behalf of the Department of Human Services ("Department"). The Claimant's sister observed the proceedings.

ISSUE

Whether the Department established the Claimant was not cooperating with the Office of Child Support warranting the termination of cash assistance ("FIP") and a reduction in food ("FAP") benefits?

FINDINGS OF FACT

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

1. The Claimant is a FIP and FAP recipient.
2. On June 8, 2011, the Office of Child Support ("OFS") found the Claimant to be in non-cooperation.
3. The Claimant never received notification from the OFS regarding the alleged non-cooperation.

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4. On July 10, 2011, the Department sent a Notice of Case Action to the Claimant stating that her FIP benefits were scheduled for closure and her FAP benefits would reduce effective August 1, 2011.
5. On July 29, 2011, the Department received the Claimant's timely written request for hearing.
6. On August 11, 2011, the OFS placed the Claimant in cooperation status but imposed a 30 day sanction.

CONCLUSIONS OF LAW

The Family Independence Program ("FIP") was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 8 USC 601, *et seq.* The Department of Human Services, formerly known as the Family Independence Agency, administers the FIP program pursuant to MCL 400.10, *et seq.*, and Michigan Administrative Code Rules ("MAC R") 400.31 01-3131. Department policies are found in the Bridges Administrative Manual ("BAM"), the Bridges Eligibility Manual ("BEM"), and the Bridges Reference Tables ("RFT").

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. The Department of Human Services administers the FAP program pursuant to MCL 400.10, *et seq.* and MAC R 400.3001-3015. Departmental policies are found in the BAM, BEM, and RFT.

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 to establish paternity and/or obtain support from an absent parent. BEM 255. Cooperation is a condition of eligibility. BEM 255. The head of household and the parent of children 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. BEM 255.

In this case, the Department was unable to establish why the Claimant was found to be not cooperating with the OCS. The Claimant testified credibly that she responded to every request from the OCS and never withheld any information. During the hearing, the OCS was contacted however, the call went to voicemail. In light of the foregoing, there was no evidence presented to rebut the Claimant's testimony of full cooperation with the OCS. Absent any evidence to the contrary, it is found that the Claimant cooperated with the OCS and as such, the Department's actions are not upheld.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law finds the Claimant cooperated with the OCS.

Accordingly, it is ORDERED:

1. The Department's July 10, 2011 determination is REVERSED.
2. The 30-day OCS sanction is not imposed.
3. The Department shall re-instate the Claimant's FIP and FAP benefits from the date of the negative action and supplement the Claimant for lost benefits she was entitled to receive if otherwise eligible and qualified in accordance with Department policy.

Colleen M. Mamelka

Colleen M. Mamelka
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: September 9, 2011

Date Mailed: September 9, 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.

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