

STATE OF MICHIGAN  
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES  
ADMINISTRATIVE HEARINGS FOR THE  
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No: 2011-4661  
Issue No: 1025, 3008



Genesee County DHS

ADMINISTRATIVE LAW JUDGE: Suzanne L. Morris

**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 December 14, 2010. The claimant appeared and provided testimony.

**ISSUE**

Did the department properly deny the claimant FIP and FAP benefits for the months of July through September, 2010 due to an Office of Child Support (OCS) noncooperation status?

**FINDINGS OF FACT**

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

1. The claimant applied for FIP and FAP benefits on July 22, 2010.
2. The claimant was serving an OCS sanction for noncooperation. (Department Exhibit 1 – 2)
3. The claimant was determined to be cooperative with OCS requirements on September 22, 2010. (Department Exhibit 3)
4. The claimant began to receive FIP and FAP benefits after being determined cooperative, beginning October 1, 2010.

5. The claimant submitted a hearing request on October 1, 2010.

### **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 (DHS or department) administers the FIP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3101-3131. The FIP program replaced the Aid to Dependent Children (ADC) program effective October 1, 1996. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (PRM).

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 (DHS or department) 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 Program Reference Manual (PRM).

Department policy states:

#### **DEPARTMENT PHILOSOPHY**

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 and the prosecuting attorney to establish paternity and/or obtain support from an absent parent. PEM 255, p. 1.

#### **DEPARTMENT POLICY**

##### **FIP, CDC Income Eligible, MA and FAP**

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.

Absent parents are required to support their children. Support includes **all** the following:

- . Child support
- . Medical support
- . Payment for medical care from any third party.

**Note:** For purposes of this item, a parent who does not live with the child due solely to the parent's active duty in a uniformed service of the U.S. is considered to be living in the child's home.

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.

## **FIP**

All rights to past, current and future child support paid for a FIP recipient must be assigned to the state as a condition of FIP eligibility. Spousal support included in a child support order must also be assigned. PEM 255, p. 1.

## **COOPERATION**

### **FIP, CDC Income Eligible, MA and FAP**

Cooperation is a condition of eligibility. The following persons in the eligible group are required to cooperate in establishing paternity and obtaining support, unless good cause has been granted or is pending.

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

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

- . Contacting the SS 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 (e.g., testifying at hearings or obtaining blood tests).

## **SUPPORT DISQUALIFICATION**

### **FIP, CDC Income Eligible, MA and FAP**

You will be notified of a client's failure to cooperate by the SS or the child support noncooperation report. Start the support disqualification procedure upon receipt of this notice.

Do **not** impose the disqualification if any of the following occur during the negative action period:

- . You are notified by OCS that the client has cooperated.
- . The case closes for another reason.
- . The noncooperative person leaves the group.
- . Support/paternity action is no longer a factor in the child's eligibility (e.g., the child leaves the group).
- . **For disqualifications based on failure to return court-ordered support**, the client cooperates with the requirement of returning court-ordered support payments or the support order is certified. PEM 255, p. 9.

Department policy indicates that cooperation with the Office of Child Support (OCS) is a condition of eligibility to receive FIP and FAP benefits. BEM 225. Cooperation is required in all phases of the process to establish paternity and obtain support, including contacting the OCS when requested. BEM 225. 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 225.

In this case, the claimant is disputing the department's action in denying her FIP and FAP benefits from her time of application, July 22, 2010 until October 1, 2010. The claimant indicated in her testimony that she did start receiving FIP and FAP benefits for the month of October, 2010.

The department testified that the claimant was serving an Office of Child Support (OCS) sanction at the time of her application, so she was not eligible to receive FIP and FAP benefits until she complied with the OCS requirements. The claimant was mailed a letter from the OCS on May 29, 2007 (see department exhibit 2). The letter indicates that the claimant failed to cooperate with the prosecuting attorney's office and requests that she contact the OCS worker to discuss the case. The claimant was warned that if she failed to contact the worker, her assistance could be reduced or stopped. When the

claimant did not contact the worker, OCS issued a Noncooperation Notice on June 14, 2007. This letter again instructed the claimant to contact the OCS worker if she was willing to cooperate with the OCS requirements.

The claimant testified that she may have received these letters from the OCS, but she does not specifically remember. There is no evidence of these letters being returned to the department. The claimant does not dispute that she did not speak with anyone from OCS until September, 2010. The claimant testified that she did contact a worker at OCS on September 20 or September 22, 2010. This was the date the claimant was considered to be cooperative with OCS requirements. The claimant was issued a Cooperation Notice on September 22, 2010. This made the claimant eligible to receive FIP and FAP assistance beginning on October 1, 2010, which was accurately determined by the department.

It is noted that the claimant indicated in her hearing request that she wanted a hearing on the State Emergency Relief (SER) program, in addition to the FIP and FAP. However, in the hearing, the claimant testified that she does not disagree with the SER decision of the department. Therefore, the SER issue was not addressed.

#### **DECISION AND ORDER**

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department properly denied the claimant FIP and FAP benefits for the months of July through September, 2010 due to an OCS noncooperation status.

Accordingly, the department's determination is UPHeld. SO ORDERED.

/s/

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Suzanne L. Morris  
Administrative Law Judge  
for Maura D. Corrigan, Director  
Department of Human Services

Date Signed: 2/3/11

Date Mailed: 2/3/11

**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.

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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