

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201147702
Issue No.: 3022; 3008
Case No.: [REDACTED]
Hearing Date: September 7, 2011
Oakland County DHS (04)

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 September 7, 2011 from Detroit, Michigan. The claimant appeared and testified. On behalf of Department of Human Services (DHS), [REDACTED], Eligibility Specialist, [REDACTED], Child Support Specialist, and [REDACTED], Child Support Specialist, appeared and testified.

ISSUES

1. Whether DHS properly determined Claimant to be uncooperative with obtaining child support for at least one of her children.
2. Whether DHS properly terminated Claimant's Food Assistance Program (FAP) benefits effective 6/2011 based on Claimant's lack of cooperation with obtaining child support and/or a failure to comply with redetermination 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 FAP benefit recipient.
2. Claimant was part of a household that includes nine persons, Claimant and eight children.

3. On 8/25/09, DHS determined that Claimant failed to cooperate concerning paternity for her child, [REDACTED]aj, by failing to keep appointments with a county prosecutor to initiate the process of obtaining child support.
4. On 10/3/09, DHS determined that Claimant was uncooperative concerning paternity for her child, [REDACTED], by failing to provide information that would identify the child's father.
5. On an unspecified date, DHS terminated Claimant's FAP benefits effective 7/2011.
6. DHS initially contended that the termination was due to Claimant's lack of cooperation in obtaining child support.
7. On 7/29/11, Claimant requested a hearing to dispute the termination of FAP benefits.
8. Following the hearing, DHS sent an email indicating the FAP benefit termination was due to an alleged failure concerning a Semi-Annual Contact Report.

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). DHS administers the FAP pursuant to Michigan Compiled Laws 400.10, *et seq.*, and Michigan Administrative Code R 400.3001-3015. DHS regulations are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT). Updates to DHS regulations are found in the Bridges Policy Bulletin (BPB).

The undersigned will refer to the DHS regulations in effect as of 6/2011, the estimated month of the DHS decision which Claimant is disputing. Current DHS manuals may be found online at the following URL: <http://www.mfia.state.mi.us/olmweb/ex/html/>.

In the present case, DHS initially contended that Claimant's FAP benefits were terminated due to a disqualification associated with child support. This was the DHS contention throughout the administrative hearing. The administrative review will accept the DHS contention as the basis for FAP benefit termination.

BEM 255 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 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 child support specialist (CSS) determines cooperation for required support actions. *Id.* at 8.

In the present case, DHS determined Claimant was uncooperative with obtaining child for two of her children. The analysis will begin with whether Claimant was uncooperative in obtaining child support.

For Claimant’s child [REDACTED]j, DHS contended that Claimant provided sufficient information to identify the child’s paternal father but missed two appointments with the county prosecutor to initiate the child support collection process. The disqualification was initiated in 2009, thus, two years had passed since DHS found Claimant to be uncooperative. Claimant responded that she may have missed the two appointments but recalled going to the prosecutor to complete some unspecified paperwork concerning child support. Claimant provided no verification of her statement. The best evidence of whether Claimant complied with the child support requirements would be whether there was a child support order for [REDACTED] there is currently no support order for the child. It is concluded that Claimant was uncooperative in obtaining child support for [REDACTED].

There was testimony taken concerning whether Claimant was also uncooperative in obtaining child support for [REDACTED], one of Claimant’s other children. However, a child support disqualification for one child has the same effect on benefits as a support disqualification for multiple children. Thus, no decision needs to be made concerning Claimant’s cooperation in obtaining child support for any of her other children to determine the correctness of the DHS termination of FAP benefits.

The consequence of a child support disqualification is that the disqualified person is excluded from the FAP benefit group in determining group size. BEM 212 at 6. DHS is to budget a pro rata share of earned and unearned income of a person disqualified for non-cooperation with child support requirements. BEM 550 at 2. Each source of income is prorated individually as follows:

1. The number of eligible FAP group members is added to the number of disqualified persons that live with the group.
2. Next the disqualified/ineligible person's income is divided by the number of persons in step 1.
3. Then the result in step 2 is multiplied by the number of eligible group members.

In the present case, DHS stated that the child support disqualification properly resulted in total FAP benefit termination effective 7/2011. This result is completely unsupported by DHS regulations.

Following the hearing, DHS sent an email indicating the actual basis for termination was due to an alleged failure by Claimant to submit a Semi-Annual Contact Report. DHS regulations concerning Semi-Annual Contact Report submissions are described below.

DHS must periodically redetermine an individual's eligibility for benefit programs. BAM 210 at 1. A complete redetermination is required at least every 12 months. *Id.* FAP groups with countable earnings and a 12-month benefit period must have a semi-annual contact. *Id.* at 6. The semi-annual mid-certification contact must be completed and results certified in Bridges by the last day of the sixth month of the benefit period to effect benefits no later than the seventh month. The contact is met by receipt of a completed DHS-1046 and required verifications. *Id.* at 7. If the client fails to return a complete SACR by the last day of the sixth month, Bridges will automatically close the case. *Id.* at 8.

Though DHS may have properly terminated Claimant's FAP benefits due to an alleged failure to return a Semi-Annual Contact Report or verifications, there is zero evidence to support the termination. Accordingly, the FAP benefit termination must be reversed. DHS cannot be ordered to reinstate FAP benefits without first receiving proper documentation. Thus, the order will give Claimant an opportunity to resubmit needed documentation by requiring DHS to re-request any needed documents rather than ordering a guaranteed supplement of benefits. A failure by Claimant to comply with the DHS request may appropriately result in no supplement of FAP benefits.

DECISION AND ORDER

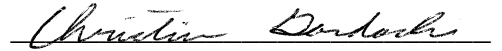
The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly determined Claimant to be uncooperative with obtaining child support concerning at least one of her children. The actions taken by DHS are PARTIALLY AFFIRMED.

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly terminated Claimant's FAP benefits by failing to establish a basis for termination. It is ordered that DHS:

- (1) resend Claimant a request for any needed documents or verifications necessary to redetermine Claimant's FAP benefits effective 7/2011;
- (2) if Claimant complies with the DHS request, DHS shall process the redetermination effective 7/2011 as a timely received request.

201147702/CG

The actions taken by DHS are PARTIALLY REVERSED.


Christian Gardocki
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: September 13, 2011

Date Mailed: September 13, 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.

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.

CG/hw

cc:

A large black rectangular redaction box covering several lines of text in the cc field.