

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201214106
Issue No.: 1003 3008
Case No.: [REDACTED]
Hearing Date: February 2, 2012
County: Wayne DHS (57)

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 following Claimant's request for a hearing. After due notice, a telephone hearing was held on February 2, 2012 from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of Department of Human Services (DHS) included [REDACTED], Specialist, and [REDACTED], Office of Child Support Specialist.

ISSUE

The issue is whether DHS properly terminated Food Assistance Program (FAP) and Family Independence Program (FIP) benefits due to an alleged failure by Claimant to comply with child support cooperation 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 FIP and FAP benefit recipient.
2. Claimant was the parent of two minor children, including a 13 year old daughter and a son born in 2011.
3. On an unspecified date, Claimant reported to DHS that the father of her oldest child is named [REDACTED]
4. Claimant did not provide DHS with a date of birth, social security number or any other information that would assist DHS in identifying the father of her daughter.

5. On 9/13/11, DHS determined that Claimant was uncooperative in providing information concerning her daughter.
6. On 9/14/11, DHS initiated termination of FIP and FAP benefits effective 11/2011 on the basis that Claimant was uncooperative in obtaining child support for her daughter.
7. On 11/17/11, Claimant requested a hearing to dispute the termination of FIP and FAP benefits.

CONCLUSIONS OF LAW

Department policies are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Reference Tables Manual (RFT).

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 42 USC 601, *et seq.* The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, R 400.3101 through R 400.3131. FIP replaced the Aid to Dependent Children (ADC) program effective October 1, 1996.

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 (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, R 400.3001 through R 400.3015.

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105.

The Adult Medical Program (AMP) is established by 42 USC 1315, and is administered by the Department pursuant to MCL 400.10, *et seq.*

The State Disability Assistance (SDA) program, which provides financial assistance for disabled persons, is established by 2004 PA 344. The Department of Human Services (formerly known as the Family Independence Agency) administers the SDA program pursuant to MCL 400.10, *et seq.*, and 2000 ACS, R 400.3151 through R 400.3180.

The Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, the Child Care and Development Block Grant of

1990, and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The program is implemented by Title 45 of the Code of Federal Regulations, Parts 98 and 99. The Department provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001 through R 400.5015.

Federal regulations and administrative rules require that FIP, Medicaid, Food Stamp, and Day Care applicants and recipients cooperate in establishing paternity and securing support from non-custodial parents and pursue potential benefits in order to receive assistance. 4DM at 1. The requirement to cooperate in support actions may be waived by the assistance agency when a client has good cause not to cooperate. *Id.*

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.

DHS contended that Claimant was uncooperative with obtaining child support for her 13 year old daughter. DHS contended that Claimant provided no useful information that would reasonably lead to identification of the father. It was not disputed that Claimant provided the father's name but no additional information. DHS noted that the father's name was too common to lead to the father's identification without other information.

It must be emphasized that a failure to provide useful information about a child's father is not, by itself, a basis to find that a client is uncooperative. If a client truly has no information to provide about a child's father, then the client cannot be said to be uncooperative without evidence of some other failure to cooperate. The issue of cooperation then often rests on a client's credibility and whether it is believed that a client is making reasonable efforts to identify the father and providing accurate information to DHS.

Claimant testified that she only knew her daughter's father briefly. Claimant did not name the child after the father which tends to be support that Claimant is unable to identify her daughter's father. Claimant also testified that she made several trips returning to the bar where Claimant met the father of her child in an attempt to identify the father. The testimony concerning the oldest child was plausible and, by itself, credible.

In support of the decision to find Claimant uncooperative in supplying information for her 13 year old child, DHS also cited Claimant's lack of cooperation in identifying the father

of Claimant's son, a child born within the last year. It should be noted that Claimant has not yet been officially deemed uncooperative for her youngest child.

Claimant testified that she was aware of her son's father's last name and nickname but not his first name. Claimant also testified that she regularly sees the father but never bothered to ask the person for his first name or social security number. Claimant also did not identify an address or vehicle for the father. It is worth noting that Claimant gave her son the last name of his father. The fact that Claimant named her son after a gentleman, but Claimant could not identify the person's first name made Claimant's testimony very dubious. Claimant's other responses were sketchy and defensive which tended to support that Claimant was not truthful about identifying her son's father.

The question remains how much Claimant's lack of credibility concerning identifying the father of her younger child should affect her credibility in identifying the father of her oldest child. It is exceptionally tempting to assume that Claimant is being untruthful, or at least apathetic, to identifying the father of her oldest child. Despite this temptation, it is still reasonably possible that Claimant truthfully testified concerning her oldest child and is unable to provide more information than she has already provided. As stated above, Claimant's testimony concerning identifying the father of her daughter seemed credible. The fact that the child is 13 years of age tends to give credibility to Claimant's testimony because it would be difficult to identify the father from a 13 year old relationship.

It is worth noting that Claimant is still responsible for providing her son's father information. Thus, Claimant may still be found uncooperative by DHS in the future for providing her son's father's information. However, that issue is not the subject of this hearing decision.

Based on the presented evidence, it is found that Claimant was not uncooperative concerning the identification of her daughter's father. It was not disputed that the FIP and FAP benefit termination was solely based on the child support cooperation disqualification. Accordingly, the DHS FIP and FAP benefit terminations were improper.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department

- did act properly when
- did not act properly when terminating FIP and FAP benefits effective 11/2011.

Accordingly, the Department's AMP FIP FAP MA SDA CDC decision is AFFIRMED REVERSED for the reasons stated on the record.

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. reinstate Claimant's FIP and FAP benefits effective 11/2011;
2. process Claimant's eligibility for FAP and FIP benefits based on the finding that Claimant was cooperative with child support for her 13 year old daughter;
3. supplement Claimant for any benefits not received as a result of the improper child support disqualification; and
4. delete the child support disqualification from Claimant's disqualification history.



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

Date Signed: February 8, 2012

Date Mailed: February 8, 2012

NOTICE: Michigan Administrative Hearing System (MAHS) 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. MAHS 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. (60 days for FAP cases).

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.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
 - misapplication of manual policy or law in the hearing decision,
 - typographical errors, mathematical error, or other obvious errors in the hearing decision that effect the substantial rights of the claimant:
 - the failure of the ALJ to address other relevant issues in the hearing decision.

Request must be submitted through the local DHS office or directly to MAHS by mail at
Michigan Administrative Hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

CG/hw

cc:

