

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2012-37911
Issue No.: 5008
Case No.: [REDACTED]
Hearing Date: May 21, 2012
County: Wayne (82-43)

ADMINISTRATIVE LAW JUDGE: Jonathan W. Owens

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, an in-person hearing was held on May 21, 2012, from Highland Park, Michigan. Participants on behalf of Claimant included Claimant and [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED].

ISSUE

Did the Department properly deny Claimant's application close Claimant's case for State Emergency Relief (SER) for failure to cooperate with Child Support?

FINDINGS OF FACT

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

1. On February 23, 2012, Claimant submitted an application for SER.
2. On February 23, 2012, the Department denied Claimant's SER application.
3. On February 28, 2012, Claimant requested a hearing.

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 State Emergency Relief (SER) program is established by 2004 PA 344. The SER program is administered pursuant to MCL 400.10, *et seq.*, and by, 1999 AC, Rule 400.7001 through Rule 400.7049. Department policies are found in the State Emergency Relief Manual (ERM).

In the instant case, Claimant filed an application for SER on February 23, 2012. The Department denied this application due to Claimant's non-cooperation with child support as listed in BRIDGES. The Department sent Claimant a notice of denial indicating she was in non-cooperation. Claimant and her representative filed a hearing request challenging the Department's denial.

The Department at hearing presented evidence indicating that Claimant had indentified the name of the child's father. The Office of Child Support witness indicated that, while Claimant had provided a name, the name alone was insufficient to pursue support. The Department indicated that Claimant had told them she only knew the gentleman's name and this was a one-night stand. The Department failed to present any evidence or testimony indicating that Claimant was aware or knew more than the name she had provided to the Office of Child Support.

Claimant testified she had a one-night stand. Claimant indicated she provided the name she had for the suspected father to the Department. She testified she only knew his name.

Federal regulations require as a condition of eligibility for public assistance benefits, that a recipient or applicant shall be required to cooperate in establishing support unless good cause for refusing to do so is established. 45 CFR 232.40-232.49.

Failure to cooperate can result in a sanction against the recipient. The sanction is the removal of the person's needs from the grant while the remaining eligible group members continue to receive full benefits.

The purpose of the disqualification sanction is to encourage cooperation, not penalize. The underlying idea is to establish the support obligation and not to "punish" the client. A non-cooperation finding is not a permanent sanction. A disqualified client may indicate willingness to cooperate at any time the case is active. BEM Item 255.

In *Black v Dept of Social Services*, 195 Mich App 27 (1992), the court of appeals addressed the issue of burden of proof in a non-cooperation finding. Specifically, the court in *Black* ruled that to support a finding of non-cooperation, the Department has the burden of proof to establish that the mother (1) failed to provide the requested verification and that (2) the mother knew the requested information. The *Black* court also emphasized the fact that the mother testified under oath that she had no further information and the Department failed to offer any evidence that the mother knew more than she was disclosing. *Black*, pp. 32-34.

The Department failed to present evidence to support that Claimant had information about her child's father and she was, in fact, refusing to share this information with the Department.

Based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, the Administrative Law Judge concludes that the Department

properly denied Claimant's application improperly denied Claimant's application
 properly closed Claimant's case improperly closed Claimant's case

for: AMP FIP FAP MA SER CDC.


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. did not act properly.

Accordingly, the Department's AMP FIP FAP MA SER 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. Initiate removal of non-cooperation sanction from Claimant's record;
2. Process Claimant's request for SER;
3. Issue a written notice of determination.



Jonathan W. Owens
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: May 24, 2012

Date Mailed: May 24, 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

JWO/pf

cc:

