

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

IN THE MATTER OF:

[REDACTED]

Reg. No. 2012 53402
Issue No. 1003, 3008
Case No. [REDACTED]
Hearing Date: June 18, 2012
Wayne County DHS (57)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 June 18, 2012. The claimant appeared and testified. [REDACTED], a witness for the Claimant also appeared. [REDACTED], FIM, also appeared on behalf of the Department of Human Services.

ISSUE

Whether the Department properly denied the Claimant's FIP cash assistance application and removed the Claimant from her food assistance group due to non cooperation 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. The Claimant applied for cash assistance on April 19, 2012.
2. The Claimant was an ongoing recipient of FAP benefits.
3. The Department closed the Claimant's FAP case and denied the Claimant's FIP application on 5/16/12, due to non cooperation with child support and for failing to cooperate in establishing paternity or securing child support. Exhibit 1.
4. The Department reduced the Claimant's FAP benefits on 5/16/12, and removed the Claimant from her FAP group.
5. The Office of Child Support did not appear at the hearing.

6. The Claimant responded to the Office of Child Support by phone and provided the name of her child's father and birth date (she did not have the father's social security number).
7. The Claimant did not receive a return phone call from the Office of Child Support.
8. No letters were provided by the Department to establish the basis it relied upon to establish that the Claimant failed to respond to the Office of Child Support.
9. The Claimant requested a hearing on 5/11/11 protesting the closure of her FIP cash assistance case.

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 R400.3101-3131. 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 Bridges Reference Manual (BRM).

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 1999 AC, Rule 400.3001 through Rule 400.3015.

In the record presented, it was established by the Claimant that she contacted the Office of Child Support and provided the full name and birth date of the father of her child. The Claimant did not receive a return phone call from the Office of Child Support indicating that the information she provided was deficient. The Department did not provide evidence of the basis upon which the Office of Child Support determined that the Claimant was non cooperative.

Additionally, at the hearing the Claimant was forthcoming with information regarding the identity of the father of her child, and provided all the information she had available at the hearing. Based upon the evidence presented at the hearing, it was not established that the sanction imposed pursuant to BEM 255 for Claimant's non cooperation with disclosing the identity of the father of her child was improperly imposed, as there was no

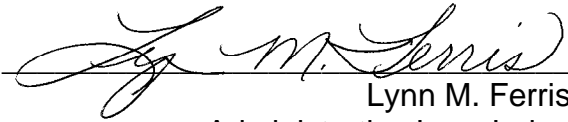
basis presented by the Department to support a finding non cooperation. Additionally no one from the Office of Child Support attended the hearing.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, it is found that the Department improperly closed the Claimant's FIP case and improperly removed the Claimant from her FAP group for non cooperation with child support, as it did not sustain its burden of proof. The Department's denial of the Claimant's FIP case as of 5/16/12 and removal of the Claimant from her FAP group is REVERSED.

Accordingly it is ORDERED:

1. The Department shall initiate reinstatement of the Claimant's FIP application retroactive to the date of application, and process the application to determine the Claimant's eligibility.
2. The Department shall restore the Claimant to her FAP group, retroactive to 5/16/12.
3. The Department shall issue a supplement to the Claimant for any FIP and FAP benefits she was otherwise entitled to receive in accordance with department policy.


Lynn M. Ferris
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: June 22, 2012

Date Mailed: June 22, 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.

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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 to:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

LMF/hw

cc:

