

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

IN THE MATTER OF:

[REDACTED]

Reg. No. 201211575
Issue No. 1003, 3008
Case No. [REDACTED]
Hearing Date: December 7, 2011
Macomb County DHS (12)

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 December 7, 2011. The claimant appeared and testified. [REDACTED] ES and [REDACTED], ES also appeared on behalf of the Department of Human Services.

ISSUE

Whether the Department properly removed the Claimant from her FAP 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 was an ongoing recipient of FAP benefits.
2. The Department reduced the Claimant's FAP benefits on 11/1/11 and removed the Claimant from her FAP group for failing to cooperate in establishing paternity or securing child support.
3. The Office of Child Support did not appear at the hearing.
4. The Claimant did not receive the Notice of Noncooperation letters dated April 28, 2009 and May 20, 2009.
5. At the hearing the claimant provided the following information: The Claimant's child's father's name is [REDACTED], he resides at [REDACTED],

██████████ and has a birth date of ██████████. The Claimant also advised that ██████████, her child's father, was incarcerated for 6 months and was released from jail in September, 2011.

6. The Claimant further testified that ██████████ sees his 18 year old son ██████████ several times a month.
7. The Claimant provided the Office of Child Support with this information several times after receiving the Notice of Case Action removing her from her FAP group.
8. The Claimant did not receive a return phone call from the Office of Child Support after numerous messages were left.
9. The Claimant requested a hearing on 10/17/11 protesting the reduction of her FAP benefits due to non cooperation.

CONCLUSIONS OF LAW

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, there was no question that the Claimant was unaware that she was required to respond to letters to assist the office of child support with establishing paternity of her children. The fact is that the Claimant credibly testified that she never received any letter requesting that she contact the office of child support. The Department presented two letters from the ██████████ requesting that she attend a request for an interview, both letters were over 2 years old. and dated in 2009. The Claimant indicated that she had trouble receiving her mail while residing at that address and actually had to replace her mailbox.

Additionally, at the hearing she was forthcoming with information regarding the identity of the father of her child in question and provided pertinent information she had available at the hearing. Lastly, the Claimant credibly testified that she called the Office of Child Support leaving a series of messages with the information regarding her child's father after she received the Notice of Case Action but never received a return phone call. The Claimant was forthright and forthcoming with information and did not withhold information intentionally, and thus the sanction imposed pursuant to BEM 255 for her 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 of non

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cooperation. Additionally no one from the Office of Child Support attended the hearing. Accordingly it is determined that the Department did not meet its burden of proof.

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 removed the Claimant from her FAP group for non cooperation with child support. It did not sustain its burden of proof. The Department's removal of the Claimant from her FAP group on 11/1/11 is REVERSED.

Accordingly it is ORDERED:

1. The Department shall initiate reinstatement of the Claimant to her FAP group retroactive to 11/1/11.
2. The Department shall issue a supplement to the Claimant for any FAP benefits the Claimant 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: 12/13/11

Date Mailed: 12/13/11

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.

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- 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

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cc:

