

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

IN THE MATTER OF:

[REDACTED]

Reg. No. 201216252
Issue No. 1038
Case No. [REDACTED]
Hearing Date: January 12, 2012
Wayne County DHS (19)

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 January 12, 2012 from Detroit, Michigan. The above named claimant appeared and testified. On behalf of Department of Human Services (DHS), [REDACTED], Manager, appeared and testified.

ISSUE

The issue is whether DHS properly assessed a child support non-cooperation disqualification resulting in adverse actions to Family Independence Program (FIP) and Food Assistance Program (FAP) benefits issued to Claimant.

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 and FIP benefit recipient.
2. On an unspecified date, DHS determined that Claimant was uncooperative with identifying the father of one or more of her minor children.
3. On a subsequent date, DHS determined that Claimant became cooperative with identifying the father of one or more of her minor children.
4. On 10/4/11, DHS initiated reduction of Food Assistance Program (FAP) and termination of Family Independence Program (FIP) benefits effective 11/2011

due to the alleged failure by Claimant to comply with child support reporting requirements.

5. On 10/24/11, Claimant requested a hearing to dispute the termination of FIP benefits and reduction of FAP benefits.

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.* DHS administers the FIP pursuant to MCL 400.10, *et seq* and MAC R 400.3101-3131.

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). Office of Child Support (OCS) policies are located in the Combined IV-D Policy Manual (4DM) and Child Support Manual (CSM).

Federal and state laws and regulations require that applicants and recipients of FIP, MA and FAP benefits cooperate with OCS in obtaining child support as a condition of benefit eligibility. 4DM 115 at 1. The goal of the cooperation requirement is to obtain child support. Information provided by the client provides a basis for determining the appropriate support action. *Id.* Cooperation from the client will enhance and expedite the process of establishing paternity and obtaining support. *Id.*

The Child Support Specialist obtains information and determines a client's cooperation except for issues of client received support and applications by day care clients. *Id.* at 3. The Support Specialist is required to inform the client of the obligation to cooperate in providing information and taking actions to obtain support. *Id.* at 4. The Support Specialist must also inform the client about support disqualifications and the possibility that the agency will proceed with support action without client cooperation. *Id.*

Cooperation includes, but is not limited to: identifying the non-custodial parent or alleged father, locating the non-custodial parent (including necessary identifying information and whereabouts, if known), appearing at reasonable times and places as requested to provide information or take legal action (e.g., appearing at the office of the

Support Specialist, the Prosecuting Attorney, or the Friend of the Court, or as a witness or complainant at a legal proceeding) and providing all known, possessed or reasonably obtainable information upon request which relates to establishing paternity and /or securing support. *Id at 2*. Non-cooperation exists when: a client willfully and repeatedly fails or refuses to provide information and/or take an action resulting in delays or prevention of support action. *Id*. OCS and DHS policy is to find a client out of compliance with the cooperation requirement only as a last resort. *Id.* at 1.

DHS established that OCS notified them of some alleged lack of cooperation by Claimant in obtaining child support for one or more of her children. It was not disputed that on some subsequent date, Claimant became cooperative with obtaining child support. DHS failed to present any evidence in establishing how Claimant was uncooperative in the child support process. A CSS was not presented as a witness for the hearing and DHS provided no supporting evidence to justify a child support disqualification. Claimant's testimony was not even sought due to DHS' failure to even establish how Claimant was noncompliant with obtaining child support. Based on the presented evidence, it is found that DHS failed to establish that Claimant was uncooperative in obtaining child support. As the child support issue was the only basis for the adverse actions DHS took against FIP and FAP benefits received by Claimant, it is found that DHS erred in terminating FIP benefits and reducing FAP benefits.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly reduced FAP benefits and terminated FIP benefits issued to Claimant. It is ordered that DHS:

- effective 10/2011, reinstate Claimant's FIP and FAP benefits to the amounts Claimant would have received but not for the child support disqualification; and
- remove any relevant child support disqualification from Claimant's disqualification history.

The actions taken by DHS are REVERSED.



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

Date Signed: January 20, 2012

Date Mailed: January 20, 2012

201216252/CG

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

CG/hw

cc:

