

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201228307
Issue No.: 3002 3008
Case No.: [REDACTED]
Hearing Date: February 29, 2012
County: Macomb DHS (12)

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 29, 2012 from Detroit, Michigan. Participants on behalf of Claimant included the above named claimant. Participants on behalf of Department of Human Services (DHS) included [REDACTED], Specialist and [REDACTED], Office of Child Support (OCS) Specialist.

ISSUE

The issue is whether DHS properly determined Claimant's Food Assistance Program (FAP) benefit eligibility effective 11/2011 based on issues concerning income and child support cooperation.

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 benefit recipient.
2. Claimant was part of a FAP benefit group of 7 persons.
3. Claimant had an income of \$628/month from Retirement, Survivors, Disability Insurance (RSDI).
4. On 1/26/11, Claimant was mailed a letter requesting Claimant to contact the Office of Child Support (OCS) by 6/29/11 concerning paternity for one of Claimant's children.

5. Claimant did not contact OCS by 6/29/11.
6. On 7/12/11, Claimant was sent another letter concerning paternity, this time asking Claimant to call OCS by 9/22/11.
7. Claimant did not contact OCS by 9/22/11.
8. On 9/30/11, DHS found Claimant to be noncompliant with obtaining child support.
9. On 10/1/11, DHS mailed Claimant a Notice of Case Action for 11/2011 FAP benefits which were calculated based in part on a household income of \$826 and a child support sanction against Claimant.
10. On 10/25/11, Claimant requested a hearing to dispute the FAP benefit issuance for 11/2011.

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 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 present case involved a dispute of FAP benefits effective 11/2011. Claimant raised two issues that could have affected her FAP benefit eligibility. Claimant raised an issue concerning whether she was cooperative in obtaining child support for one of her children and a second issue regarding whether DHS accurately budgeted the household income. The child support issue will be the first dispute considered.

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.

A testifying OCS specialist persuasively testified that DHS mailed multiple notices to Claimant concerning the paternity of one of her children. Claimant conceded that she received a notice dated 6/29/11 and that she failed to respond to it. Claimant denied that she received a notice dated 1/26/11, though DHS testified credibly that a notice was sent. Based on the presented evidence, it is found that DHS established a basis that Claimant was uncooperative with obtaining child support for one of her children.

It was not disputed that in 1/2012, Claimant contacted DHS to report information concerning her child’s father. For purposes of this decision, this conversation is irrelevant because it would have no effect on whether Claimant was cooperating with OCS in establishing paternity in 11/2011, the FAP benefit issuance which Claimant is disputing.

Claimant gave testimony which appeared to be helpful in identifying the father of the child whose paternity is in dispute. Claimant was able to provide a name, a former employer and date of birth for the alleged father. Generally, a client who is able to provide identifying paternal information tends to be one that is cooperative in obtaining child support. However, it was not disputed that OCS was not notified of this information despite two different requests to Claimant for the information.

Based on the provided evidence, it is found that DHS properly found Claimant to be uncooperative with establishing paternity. Accordingly, DHS properly affected Claimant’s FAP benefit eligibility based on the issue of child support cooperation. This leaves a second FAP benefit issue concerning whether Claimant’s income was correctly budgeted.

It was not disputed that one of Claimant’s children received \$628/month in RSDI. Claimant denied having any other household income. It is known that DHS budgeted an unearned income of \$826 in determining Claimant’s FAP benefit eligibility for 11/2011. DHS was given additional time during the hearing to explain why \$198 in income was budgeted. DHS could not justify the \$826 unearned income amount. Based on the presented evidence, it is found that DHS improperly determined Claimant’s FAP benefit eligibility due to improperly budgeting income.

Toward the end of the hearing, Claimant raised the income issue back to 9/2011 and 10/2011. Claimant’s hearing request was sufficiently timely to justify a recalculation of FAP benefit months beginning 9/2011.

It should be noted that this decision cannot state with certainty that DHS improperly determined Claimant’s FAP benefit eligibility effective 9/2011. Concerning 9/2011 and

10/2011, it is only known that DHS might have improperly budgeted Claimant's household income based on the amount was budgeted in 11/2011 and that DHS failed to establish how much income was even budgeted. For 11/2011, all that can be stated is that DHS failed to establish a basis for budgeting \$198/month in income.

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

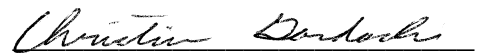
did act properly in applying a child support disqualification in determining Claimant's FAP benefit eligibility effective 11/2011.

did not act properly when determining Claimant's unearned income as \$826/month effective 11/2011 and possibly as far back as 9/2011

Accordingly, the Department's AMP FIP FAP MA SDA CDC decision is AFFIRMED PARTIALLY 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. recalculate Claimant's FAP benefit eligibility effective 9/2011 based on verified household income; and
2. supplement Claimant for any FAP benefits not received as a result of potential DHS income budgeting errors.


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

Date Signed: March 6, 2012

Date Mailed: March 6, 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:

