

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201239767
Issue No.: 1003 3008
Case No.: [REDACTED]
Hearing Date: April 12, 2012
County: Wayne 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 following Claimant's request for a hearing. After due notice, a telephone hearing was held on April 12, 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], Office of Child Support (OCS) Specialist, and [REDACTED], Manager.

ISSUE

The issue is whether DHS properly terminated Claimant's Family Independence Program (FIP) benefit eligibility and reduced Claimant's Food Assistance Program (FAP) benefit eligibility due to alleged lack of cooperation by Claimant in establishing 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. Claimant was an ongoing FAP and FIP benefit recipient.
2. Claimant was part of a household that included Claimant's daughter.
3. On an unspecified date, OCS contacted Claimant to ascertain information concerning the father of her child so that child support may be established.
4. Claimant reported to OCS that she only knew her child's father's first name.

5. On 3/1/12, OCS determined that Claimant was uncooperative in establishing paternity for her child and imposed a child support disqualification against Claimant.
6. On 3/3/12, DHS initiated termination of Claimant's FIP benefit eligibility and reduced Claimant's FAP benefit eligibility effective 4/2012 due to the child support disqualification.
7. On 3/9/12, Claimant requested a hearing to dispute the FAP benefit reduction and FIP benefit termination.

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, 42 USC 601, *et seq.* The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, R 400.3101 through R 400.3131. FIP replaced the Aid to Dependent Children (ADC) program effective October 1, 1996. 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.

FIP and FAP policies are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Reference Tables Manual (RFT). 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.

In the present case, DHS alleged that Claimant was uncooperative with establishing child support for failing to provide information which could reasonably be expected to lead to establishing paternity for her child. It was not disputed that the only information that Claimant was able to provide to OCS was the father's first name.

Claimant testified concerning the circumstances of her child's conception. Claimant stated that she met her child's father two times and that she has not seen her child's father since the child was conceived. Claimant stated that she initially received a working phone number for the gentleman but that when she later called the number, it was disconnected. Claimant stated that she never saw the gentleman again. The only information Claimant could give concerning her child's father was his first name, vehicle brand, vehicle color and very generic physical information.

Claimant stated that she never made efforts to identify the child's father because she had insufficient information to do so. This testimony tended to be unpersuasive because Claimant had two possible methods of identifying the father, through Facebook or by checking her college campus parking lot in an attempt to spot her child's father's vehicle.

It must be emphasized that a failure to provide useful information about a child's father is not, by itself, a basis to find that a client is uncooperative. If a client truly has no information to provide about a child's father, then the client cannot be said to be uncooperative without evidence of some other failure to cooperate. The issue of cooperation then comes down to a client's credibility and whether it is believed that a client is providing accurate information to DHS. In the present case, it may be tempting to draw conclusions from Claimant's life choices, but Claimant's choices are irrelevant to determining whether she complied with her child support reporting requirements

Though Claimant's credibility could not be characterized as overwhelmingly persuasive, the bottom line is that the details of her inability to identify her child's father were plausible. Accordingly, it is found that Claimant was not uncooperative with her child support reporting requirements. As there was no dispute that the FAP benefit reduction and FIP benefit termination were solely based on the DHS determination that Claimant

was uncooperative in establishing child support, the FIP benefit termination and FAP benefit reduction are found to be improper.

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 when

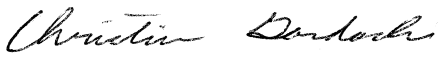
did not act properly when reducing Claimant's FIP benefit eligibility and reducing Claimant's FAP benefit eligibility effective 4/2012.

Accordingly, the Department's AMP FIP FAP MA SDA 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) reinstate Claimant's FIP benefits effective 4/2012;
- (2) process Claimant's FIP and FAP benefit eligibility subject to the finding that Claimant was not uncooperative with establishing paternity for her child;
- (3) delete the child support disqualification from Claimant's disqualification history; and
- (4) supplement Claimant for any benefits not received as a result of the improper finding of disqualification.

The actions taken by DHS are REVERSED.


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

Date Signed: April 16, 2012

Date Mailed: April 16, 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:

