

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

IN THE MATTER OF:

[REDACTED]

Reg. No. 201246501
Issue No. 3008; 6019
Case No. [REDACTED]
Hearing Date: May 17, 2012
Wayne County DHS (15)

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 May 17, 2012 from Detroit, Michigan. The claimant appeared and testified. On behalf of Department of Human Services (DHS), [REDACTED] Manager, and Erica Beard, Specialist, appeared and testified.

ISSUE

The issue is whether DHS properly assessed a child support non-cooperation disqualification resulting in adverse actions to Claimant's Food Assistance Program (FAP) and Child Development and Care (CDC) benefit eligibility.

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 CDC benefit recipient.
2. On 4/2/12, DHS determined that Claimant was uncooperative in obtaining child support for Claimant's daughter.
3. On 4/4/12, DHS initiated a termination of Claimant's CDC benefit eligibility effective 4/22/12 and a reduction in Claimant's FAP benefit eligibility effective 5/2012, both due to an alleged lack of cooperation by Claimant in establishing child support for her daughter.

4. On 4/10/12, Claimant requested a hearing to dispute the reduction of FAP benefits and the termination of CDC benefits.

CONCLUSIONS OF LAW

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).

The Child Development and Care program is established by Titles IVA, IVE and XX of the Social Security Act, the Child Care and Development Block Grant of 1990, and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The program is implemented by Title 45 of the Code of Federal Regulations, Parts 98 and 99. The Department of Human Services provides services to adults and children pursuant to MCL 400.14(1) and MAC R 400.5001-5015. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

Federal and state laws and regulations require that applicants and recipients of FIP, MA, CDC 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 provided information that OCS found Claimant to be uncooperative in establishing child support for her daughter. DHS lacked any first-hand information as to how Claimant was uncooperative. DHS speculated that Claimant was uncooperative by failing to identify her child's father. The DHS lack of first-hand information by DHS is problematic. The basis for a child support sanction should be supported by evidence; speculation and/or conjecture is not persuasive evidence. Without the testimony of the OCS specialist assigned to Claimant's case, speculation is all that the testifying specialists could present.

Even if it was presumed that the basis for the child support sanction was a failure to identify Claimant's daughter's father, this is an inappropriate basis for a child support sanction. 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 often rests on a client's credibility and whether it is believed that a client is making reasonable efforts to identify the father and providing accurate information to DHS.

Claimant gave brief testimony concerning the identity of her child's father. Because DHS failed to present any persuasive evidence to establish a lack of cooperation by Claimant, no further evidence was expected from Claimant. Based on the presented evidence, it is found that DHS failed to establish a lack of cooperation by Claimant in cooperating with child support.

It was not disputed that the adverse actions taken by DHS to Claimant's FAP and CDC benefit eligibility were solely based on the finding that Claimant was uncooperative with establishing child support. Accordingly, the FAP benefit reduction and CDC benefit terminations are found to be improper.

DECISION AND ORDER


The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS failed to establish that Claimant was uncooperative in obtaining child support. It is ordered that DHS:

- reinstate Claimant's FAP benefit eligibility effective 5/2012;
- reinstate Claimant's CDC benefit eligibility effective 4/22/12;

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- process Claimant's ongoing FAP and CDC benefit eligibility subject to the finding that Claimant was cooperative with obtaining child support;
- delete the child support disqualification from Claimant's disqualification history;
- 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: May 21, 2012

Date Mailed: May 21, 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 to:
Michigan Administrative hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

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cc:

