

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2012-49754
Issue No.: 3008
Case No.: [REDACTED]
Hearing Date: June 4, 2012
County: Wayne (55)

ADMINISTRATIVE LAW JUDGE: Colleen M. Mamelka

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 hearing was conducted in Hamtramck, Michigan on Monday, June 4, 2012. The Claimant appeared and testified. The Claimant was represented by [REDACTED]. Participating on behalf of the Department of Human Services ("Department") was [REDACTED] from the Office of Child Support ("OCS") participated by telephone.

ISSUE

Whether the Department properly reduced the Claimant's food assistance ("FAP") benefits due to non-cooperation with the Office of 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 a FAP recipient.
2. On [REDACTED] the Claimant gave birth to her daughter.
3. The daughter's Certificate of Live Birth does not contain the father's name. (Claimant Exhibit A)
4. On March 1, 2007, the Claimant was found to be in Non-cooperation with the OCS resulting in a Non-Cooperation Notice being sent to the Claimant the following day. (Exhibit 5, pp. 3, 16)

5. On February 14, 2012, the Claimant provided the name of her child's father stating she had no other information. (Exhibit 5, p. 3)
6. On this same date, the Department sent a letter to the Claimant requesting further information regarding the child's father. (Exhibit 5, p. 20)
7. The Claimant denied knowledge of any further information regarding the child's father.
8. In February 2012, the Claimant's non-cooperation status was found to continue resulting in the FAP benefits being approved for the Claimant's daughter only effective April 1, 2012. (Exhibits 1, 2)
9. On April 24, 2012, the Department received the Claimant's timely written request for hearing.

CONCLUSIONS OF LAW

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

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, Rules 400.3101 through 400.3131. FIP replaced the Aid to Dependent Children program effective October 1, 1996.

The Food Assistance Program ("FAP"), 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. The Department, formerly known as the Family Independence Agency, administers FAP pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, Rules 400.3001 through 400.3015.

The Medical Assistance ("MA") program is established by the Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations. The Department of Human Services, formerly known as the Family Independence Agency, administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105.

The Adult Medical Program ("AMP") is established by 42 USC 1315, and is administered by the Department pursuant to MCL 400.10, *et seq.*

The State Disability Assistance (“SDA”) program, which provides financial assistance for disabled persons, is established by 2004 PA 344. The Department of Human Services, formerly known as the Family Independence Agency, administers the SDA program pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, Rules 400.3151 through R 400.3180.

The Child Development and Care (“CDC”) 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 provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, Rules 400.5001 through 400.5015.

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. Cooperation is a condition of eligibility. BEM 255. The head of household and the parent of children 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. BEM 255.

For FAP purposes, the failure to cooperate without good cause results in disqualification of the individual that failed to cooperate. BEM 255. The remaining eligible group members will continue to receive benefits. BEM 255. The Michigan IV-D Child Support Manual defines non-cooperation as the failure of the custodial party (“CP”) to respond to a request for action or failure to provide information necessary to establish paternity. (§ 2.3) A CP is in non-cooperation when, without good cause, the CP willfully and repeatedly fails or refuses to provide information and/or take an action needed to establish paternity or obtain child support or medical support. (§ 2.3) A CP may be required to cooperate by attesting under oath to the lack of information regarding the non-custodial parent. (§ 2.3. 5) The imposition of a non-cooperation sanction is only used as a last resort when no other option is available to move the case forward. (§ 2.3)

In this case, the Claimant testified that when she initially applied for benefits, she provided the name of her child’s father stating she had no further information. In March of 2007, the OCS determined that the Claimant was not cooperating resulting in the imposition of a sanction. Subsequently, in February 2012, while the Claimant’s case was being reviewed, the Claimant again provided the child’s father’s name stating she had no other information. The OCS report, based in part, on the Claimant’s demeanor during the telephone interview, did not believe the Claimant so the sanction

remained on the Claimant's case. Effective April 1, 2012, the Claimant's group was approved for \$200.00 in FAP benefits based on the group size of one.

During the hearing, the Claimant testified that she had a brief relationship (days) with the father and became pregnant. Outside of his name, the Claimant was unable to provide any other identifying information. The father's name was not listed on the child's birth certificate and the Claimant testified credibly that she has had no communication with the father over the years nor is she aware of his whereabouts. The OCS support raised several questions regarding the child's father such as the make/model of his vehicle, telephone number, and/or his birth date. The Claimant responded that she knew the car was black (5½ years ago) but did not remember the make or model. Regarding the telephone number, the Claimant testified that during the few days' encounters, she provided the father with her mother's land line number which did not have caller I.D. and, as such, she never received his phone number. And finally, regarding the father's birth date, the Claimant testified that it never came up in conversation. The Claimant provided the information that she had. Ultimately, the Department failed to establish by a preponderance of evidence that the Claimant willfully and repeatedly failed, or refused to provide information and/or take an action needed to establish paternity. Further, the Claimant attested under oath to the lack of information regarding the non-custodial parent. In light of the foregoing, the Department's determination is not upheld.

DECISION AND ORDER

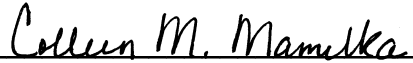
The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department failed to establish by a preponderance of evidence that the Claimant willfully and repeatedly failed to cooperate.

Accordingly, the Department's reduction in FAP benefits based on non-cooperation with the OCS is not upheld.

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. The Department shall remove the non-cooperation sanction effective April 1, 2012.
2. The Department shall recalculate the Claimant's FAP benefits effective April 1, 2012 (to include the correct unearned income) using a group size of 2 in accordance with department policy.
3. The Department shall notify the Claimant and her Authorized Hearing Representative of the determination in accordance with department policy.

4. The Department shall supplement for lost FAP benefits that the Claimant was entitled to receive if otherwise eligible and qualified.


Colleen M. Mamelka
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: June 8, 2012

Date Mailed: June 8, 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

CMM/cl

cc:

