

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

IN THE MATTER OF:



Reg. No. 2012 67333
Issue No. 3008, 1003, 6019
Case No. [REDACTED]
Hearing Date: September 5, 2012
Wayne County DHS (17)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 September 5, 2012. The claimant appeared and testified. [REDACTED], ES and [REDACTED], Assistance Payments Supervisor appeared on behalf of the Department of Human Services. [REDACTED] Senior Child Support Specialist of the Office of Child Support, appeared on behalf of the Office of Child Support and testified as a witness for the Department.

ISSUE

Whether the Department properly removed the Claimant from her FAP group and closed her and Medical Assistance and Child Development and Care (CDC) case due to non cooperation with 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 an ongoing recipient of food assistance (FAP), Medical Assistance and Child Development and Care (CDC) benefits.
2. The Department issued a Notice of Case Action on 6/7/12, which reduced the Claimant's FAP benefits effective June 22, 2012, by removing the Claimant from her FAP group and closing Claimant's Medical Assistance and CDC case due to failure to cooperate in establishing paternity or securing child support.

3. The Claimant did speak with the Office of Child Support and did provide the name of the Claimant's child's alleged father, his birth date and gave a description of the father.
4. The Claimant testified that she only knew the person for several weeks in February 2010 and last spoke to him in April 2010 when she told him that she was pregnant. The phone number Claimant had for the father of her child became disconnected and she no longer has the number.
5. The information provided by the Claimant did not lead the Office of Child Support to locate the alleged father.
6. The Claimant requested a hearing on 6/18/12, protesting the reduction of her FAP benefits, the closure of her Medical Assistance and CDC (child care) cases due to non cooperation with child support.

CONCLUSIONS OF LAW

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 1999 AC, Rule 400.3001 through Rule 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 (CFR). 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. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (PRM).

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 1999 AC, Rule 400.3101 through Rule 400.3131. FIP replaced the Aid to Dependent Children (ADC) program effective October 1, 1996.

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 (formerly known as the Family Independence Agency) provides services to adults and children pursuant to MCL 400.14(1) and Michigan Administrative Code Rules R 400.5001-5015. Department policies are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM).

In the record presented, the Claimant responded to a Notice of Non Cooperation on 5/25/12, at which time she advised the Office of Child Support (OCS) that they had the wrong name for the person she believed to be the father of her child. Based on the credible testimony of the Claimant, she provided what she believed to be the correct name of the father and a birth date. The Claimant met the father in 2010 at a party store she entered to purchase chips. The Claimant did not have an address for the father as he usually took cabs to her home. The Claimant also provided the OCS a description of the father, height, weight, skin color and color of eyes. The Office of Child Support processed the information and found no individual matching the name or birth date provided by the Claimant. The Claimant had a further discussion with the OCS and advised that the last time she spoke with the father she told him she was pregnant and he appeared happy. The next time contact with the father was attempted at the father's cell number, the number was no longer in service. Claimant testified that she did not keep the number because she believed it was no longer good.

During this period the Claimant also moved and changed her own cell phone number. The Office of Child support requested that the Claimant attempt to locate the father on social media sites. The Claimant testified credibly at the hearing that she attempted to look for the father on social media and was unsuccessful. At the hearing, the Office of Child Support suggested that the Claimant go back to the party store where she met the father and see if anyone there knew his whereabouts. It is clear that the Claimant provided no useful information to assist the OCS in locating the father of her child.

Although the Claimant's cooperation was not useful in locating the father of her child, it does appear based up her credible testimony that the information provided to OCS was all the information she has. The suggestion that the Claimant return to a party store two plus years after the Claimant casually met the father there, is not reasonable and highly unlikely to result in further identification of the father.

Based upon the record as a whole, it is determined that the Claimant has attempted to locate the absent father, and has been forthcoming with the only information she has. Overall, although the information provided by Claimant was minimal, it is determined that the Claimant did not refuse to cooperate as there are no further efforts Claimant could reasonably make that would likely lead to the identification of the father. She has provided all the information that she has.

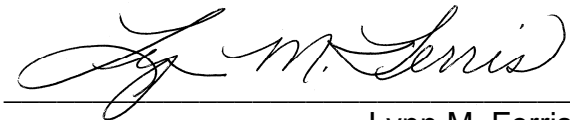
Based upon the information that has been provided by the Claimant, and the testimony of the parties, it is determined that the Claimant has cooperated. Thus, the Department improperly closed the Claimant's MA and CDC cases and improperly removed the Claimant from her FAP group. Accordingly, it is determined that the Department did not demonstrate non cooperation and thus did not meet its burden of proof. Department of Human Services Bridges Eligibility Manual (BEM) 255 (2011).

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, finds the Department improperly closed the Claimant's Medical Assistance and Child Development and Care case and improperly removed the Claimant from her FAP group for non cooperation with child support. The Department's actions are REVERSED.

Accordingly it is ORDERED:

1. The Department shall reinstate the Claimant's CDC and MA cases retroactive to the date of closure (June 22, 2012).
2. The Department shall restore the Claimant to her FAP case as a group member, retroactive to the date of removal (June 22, 2012).
3. The Department shall issue a supplement to the Claimant for benefits she was otherwise entitled to receive, in accordance with Department policy.



Lynn M. Ferris
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: September 13, 2012

Date Mailed: September 13, 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).

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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

LMF/hw

cc:

