

**STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES**

IN THE MATTER OF:

[REDACTED]

Reg. No: 201272994
Issue No: 3008
Case No: [REDACTED]
Hearing Date: October 3, 2012
Newaygo County DHS

ADMINISTRATIVE LAW JUDGE: Gary F. Heisler

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9; and MCL 400.37 upon claimant's request for a hearing. After due notice, a hearing was held on October 3, 2012. Claimant appeared and testified.

ISSUE

Did the Department of Human Services properly remove Claimant from the Food Assistance Program (FAP) benefit group on September 1, 2012 for failure to cooperate with the Office of Child Support?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

1. Claimant was an ongoing recipient of Food Assistance Program (FAP) benefits. Claimant's benefit group consisted of herself and her two children.
2. On August 2, 2012, Claimant was interviewed by an Office of Child Support, Support Specialist. The interview was regarding paternity establishment for [REDACTED] whose date of birth is [REDACTED].
3. On August 4, 2012, the Office of Child Support issued a notice that Claimant was in noncooperation.
4. On August 8, 2012, Claimant was sent a Notice of Case Action (DHS-1605) stating her Food Assistance Program (FAP) benefits were being decreased because she was removed from the benefit group for failure to cooperate with the Office of Child Support.

5. On August 24, 2012, Claimant submitted a request for hearing.

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 of Human Services (DHS or department) administers the FAP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3001-3015. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (PRM).

Department policy provides the following guidance for Office of Child Support workers. The Department's policies are available on the internet through the Department's website.

Michigan IV-D Child Support Manual Department of Human Services

2.15 Cooperation/Noncooperation/Good Cause January 6, 2012

**Publication/
Revision Date:**
January 6, 2012

Chapter Number:
2.0

Chapter Title:
Case Initiation

Section Number:
2.15

Section Title:
Cooperation/Noncooperation/Good Cause

2.2 What Defines Cooperation?

A CP is in cooperation with the IV-D program when (s)he responds to a request for action and provides information to assist in establishing paternity and/or a child support order. Cooperation includes, but is not limited to, the following:

Identifying the non-custodial parent (NCP) or putative father;

Locating the NCP/putative father, including providing necessary identifying information and whereabouts, if known;

Attesting to the lack of knowledge about any of the above information;

Appearing for genetic testing as requested by Prosecuting Attorney (PA) or Friend of the Court (FOC) staff, and making the child(ren) available on the dates and times requested for genetic testing;

Appearing at reasonable times and places as requested to provide information or take legal action (e.g., appearing at the PA or FOC office);

Appearing as a witness or complainant at a legal proceeding;

Providing the name of the insurance company and coverage that the CP provides for the child(ren); and

Providing all known, possessed or reasonably obtainable information that relates to establishing paternity and/or securing support.

To be in cooperation, the CP must provide information or take any action needed to establish paternity or obtain child support or medical support. Information provided by the CP provides a basis for determining the appropriate support action. Cooperation from the CP will enhance and expedite the process of establishing paternity and obtaining support.

The goal of the cooperation requirement is to obtain child support and medical support. Michigan IV-D policy is to find a CP who is an applicant or recipient of assistance out of compliance only as a last resort.

2.3 What Defines Noncooperation?

Noncooperation exists when the CP does not respond to a request for action or does not provide information, and the process to establish paternity and/or a child support order cannot move forward without the CP's participation. A CP is in noncooperation with the IV-D program when the CP, without good cause, willfully and repeatedly fails or refuses to provide information and/or take an action needed to establish paternity or to obtain child support or medical support.

It is possible in some situations to complete the process of establishing paternity or establishing a child support order without the CP's participation. When this situation occurs, the CP should not be found in noncooperation. When noncooperation is determined for a CP, the results of support disqualifications can be severe.⁸ IV-D staff apply noncooperation to a CP only as a last resort when no other option is available to move the IV-D case forward.

Some factors that must be considered when determining that the CP is not cooperating with the child support program include:

2.3.1 Providing Information

Providing information is a primary element of cooperation.

There is no minimum information requirement. CPs can be required to provide known or obtainable information about themselves, the child(ren) for whom support is sought, and the NCP when needed to obtain support.

Several factors may affect a CP's ability to remember or obtain information. In evaluating cooperation, the IV-D worker should consider such factors as the CP's marital status, the duration of his/her relationship

with the NCP, and the length of time since the CP's last contact with the NCP. A CP who was married to the NCP or knew the putative father for several months can reasonably be expected to provide identifying and location information. The extent and age of the location information provided may be affected by how long it has been since the parties last lived together or had personal contact.

Also, IV-D workers should consider previously obtained information, the feasibility of the current information, and the CP's demeanor in determining whether or not a CP is cooperative.

2.3.5 Attesting Under Oath

A CP can be required to cooperate by attesting under oath to the lack of information regarding an NCP. This may assist in determining cooperation in cases in which a CP's willingness to cooperate is questionable but there is insufficient evidence for a finding of noncooperation.

The IV-D worker can consider a CP in cooperation if the CP keeps an appointment to take an oath and attests to the lack of information about the NCP. Cooperation exists unless or until contrary information becomes available. If the CP fails or refuses to attest to the lack of information, evidence of noncooperation exists.

The IV-D worker is not required to provide a CP with the opportunity to attest under oath if the CP has not demonstrated a willingness and good-faith effort to provide information. In this situation, the IV-D worker must evaluate whether the CP has knowingly withheld information or given false information, and base a decision on that evidence.

At this hearing Claimant testified under oath that: she was working in a [REDACTED] in [REDACTED]; she accepted an invitation to a Halloween party from a customer; the customer picked her up and took her to the party; she got quite drunk at the party and was with a young man whom she thinks was named [REDACTED]; she (Claimant) did not see the customer again; she did not know she was pregnant until a couple of months later because she has PCOS ([REDACTED]) which gives her irregular periods; she (Claimant) did not try to go to the location of the party to seek any information about the young man; and she did not make any effort to find out the identify of the young man.

The noncooperation decision made by Support Specialist Boykoa was in accordance with the Department policy cited above. Subsequently, Claimant has met a cooperation requirement listed above by appearing at this hearing and attesting under oath that she lacks sufficient knowledge to identify and find Logan's father. As of October 3, 2012, Claimant is in cooperation with the Office of Child Support.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the Department of Human Services properly removed Claimant from the Food Assistance Program (FAP) benefit group on September 1, 2012 for failure to cooperate with the Office of Child Support. That action is upheld.

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides Claimant became cooperative on October 3, 2012, by appearing at this hearing and attesting under oath that she lacks sufficient knowledge to identify and find Logan's father.

It is ORDERED that Claimant's status be changed to Cooperation and she be reinstated as a member of the Food Assistance Program (FAP) benefit group.

/s/

Gary F. Heisler
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: October 8, 2012

Date Mailed: October 9, 2012

NOTICE: Administrative Hearings 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. Administrative Hearings will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 60 days of the filing of the original request.

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.

GFH/tb

cc:

