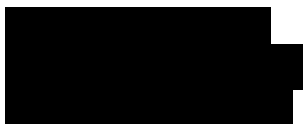


STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No. 2012-9708
Issue No. 1038; 3008
Case No. [REDACTED]
Hearing Date: December 21, 2011
Oakland County DHS (04)

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 December 21, 2011. The claimant appeared and testified; Kimberly Gray also appeared and testified on behalf of Claimant. On behalf of Department of Human Services (DHS), [REDACTED], Specialist, appeared and testified.

ISSUES

1. The first issue is whether DHS properly terminated Family Independence Program (FIP) benefits due to an alleged failure by Claimant to cooperate with child support and/or participate with a work participation program.
2. The second issue is whether DHS properly reduced Food Assistance Program (FAP) benefits due to an alleged failure by Claimant to cooperate with child support and/or participate with a work participation program.

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 benefit recipient.
2. Claimant had an ongoing child support penalty due to an alleged failure to cooperate with child support.
3. On 7/27/11, Claimant applied for FIP benefits.

4. On an unspecified date, DHS denied Claimant's application for FIP benefits based on an ongoing child support penalty to Claimant.
5. On 8/29/11, Claimant reapplied for FIP benefits.
6. On 9/14/11, DHS reduced Claimant's FAP benefits due to an ongoing penalty to Claimant for not cooperating with obtaining child support.
7. On 10/12/11, DHS again denied Claimant's application for FIP benefits based on an ongoing child support penalty to Claimant.
8. On 10/25/11, Claimant requested a hearing to dispute the denial of multiple FIP benefit applications and the reduction of FAP benefits.

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, 8 USC 601, *et seq.* DHS administers the FIP pursuant to MCL 400.10, *et seq* and MAC R 400.3101-3131.

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). 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 had an ongoing support disqualification due to an alleged failure by Claimant to cooperate with obtaining child support. DHS was unable to put forth any evidence to justify the disqualification. DHS was unable to present any documentation or testimony verifying that Claimant was uncooperative with obtaining child support. It was not even established how Claimant was allegedly uncooperative. Based on the presented evidence, it can only be found that DHS failed to establish that Claimant was uncooperative with obtaining child support.

It was not disputed that an ongoing FAP benefit reduction and a FIP application denial were the direct result of the DHS finding of child support non-cooperation. However, DHS alleged a second basis for the FIP benefit application denial, that Claimant was noncompliant with work participation.

DHS requires clients to participate in employment and self-sufficiency related activities and to accept employment when offered. BEM 230A at 1. Federal and state laws require each work eligible individual (WEI) in a FIP group to participate in a work participation program or other employment-related activity unless temporarily deferred or engaged in activities that meet participation requirements. *Id.* These clients must participate in employment and/or self-sufficiency related activities to increase their employability and obtain employment. *Id.*

The work participation program is administered by the Workforce Development Agency, State of Michigan (WDASOM) through the Michigan one-stop service centers. *Id.* The work participation program serves employers and job seekers for employers to have skilled workers and job seekers to obtain jobs that provide economic self-sufficiency. *Id.*

Though DHS initially alleged that Claimant failed to attend work participation program, DHS later conceded that Claimant had attended. Thus, Claimant was not noncompliant with attending a work participation program. Accordingly, DHS had no basis to deny the application based on a failure by Claimant to cooperate in obtaining child support or for Claimant failing to attend a work participation program.

Effective 10/2011, BEM 234 restricts the total cumulative months that an individual may receive FIP benefits to a lifetime limit of 48 months for state-funded FIP cases and 60 months for federally-funded FIP cases. There was evidence which established that Claimant's FIP benefits may be affected beginning 10/2011 based on the time limit regulations. DHS has yet to make a determination on this issue though it may be relevant to whether Claimant is entitled to FIP benefits from 10/2011 and forward. This issue will not be decided yet. DHS shall be ordered to make a new determination of ongoing benefit eligibility and may factor lifetime limits into the determination. If Claimant disputes the yet to be made determination, Claimant may request a hearing for that issue.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly denied Claimant's application for FIP benefits and reduced ongoing FAP benefits. It is ordered that DHS:

- (1) end any previously assessed child support disqualification effective 7/2011;
- (2) reinstate Claimant's FIP benefit application dated 7/27/11;
- (3) evaluate Claimant's eligibility for FIP benefits based on the finding that Claimant was cooperative with child support and was compliant with work program participation; and
- (4) supplement Claimant for any benefits not received.

The actions taken by DHS are REVERSED.



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

Date Signed: 12/29/11

Date Mailed: 12/29/11

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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/sm

cc:

