

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

IN THE MATTER OF:



Reg. No.: 201311396
Issue No.: 3008
Case No.: [REDACTED]
Hearing Date: January 3, 2013
County: Wayne DHS (17)

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 following Claimant's request for a hearing. After due notice, a telephone hearing was held on January 3, 2013 from Detroit, Michigan. Participants included the above-named claimant. Participants on behalf of Department of Human Services (DHS) included [REDACTED], Manager.

ISSUES

The issue is whether DHS properly affected Claimant's eligibility for Food Assistance Program (FAP) benefits due to an alleged failure by Claimant to cooperate with establishing 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. Claimant was an ongoing FAP benefit recipient.
2. On an unspecified date, DHS determined that Claimant was uncooperative with obtaining child support for three of his children.
3. On 10/10/12, DHS imposed a child support disqualification to impact Claimant's FAP benefit eligibility effective 11/2012.
4. On 11/13/12, Claimant requested a hearing to dispute the child support disqualification and its impact on FAP benefit eligibility effective 11/2012.

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).

Claimant requested a hearing because of a FAP benefit reduction. It was not disputed that the reduction was due to an alleged failure by Claimant to cooperate with OCS to establish child support for three children. Office of Child Support (OCS) policies are located in the Combined IV-D Policy Manual (4DM) and Child Support Manual (CSM).

Concerning FAP benefit eligibility, the custodial parent or alternative caretaker 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 (12/2011), p. 1. Failure to cooperate without good cause results in disqualification. *Id.* Disqualification includes member removal, as well as denial or closure of program benefits, depending on the type of assistance. *Id.* The support specialist (i.e. OCS) determines cooperation for required support actions. *Id.*, p. 8.

DHS speculated that the basis for a child support disqualification was an alleged failure by Claimant to provide DHS with maternal contact information for three of Claimant's children. For purposes of this decision, the basis for the child support disqualification will be assumed as correct.

Claimant testified that the mother of three of his children is living at an unknown location in [REDACTED] and that he has no information to provide to DHS concerning her specific whereabouts. Claimant also testified that he attempted to report what he knew of his children's mother's location but that he was repeatedly unable to reach OCS by telephone. Claimant also testified that he never received any correspondence from OCS, except for one letter in 10/2012.

Claimant's testimony was credible and un rebutted. DHS presented no first-hand evidence to support the finding that Claimant was uncooperative with obtaining child support. It should be noted that OCS was called during the hearing, however, the call was not successful in reaching an OCS representative. Based on the presented evidence, it is found that Claimant was not uncooperative in obtaining child support. Accordingly, the child support disqualification affecting Claimant's FAP benefit eligibility effective 11/2012 was improper.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly took adverse actions to Claimant's FAP benefit eligibility. It is ordered that DHS:

- (1) redetermine Claimant's FAP benefit eligibility effective 11/2012 subject to the finding that Claimant was not uncooperative with establishing child support;
- (2) supplement Claimant for any benefits not issued as a result of the improper child support disqualification; and
- (3) remove the child support disqualification from Claimant's disqualification history.

The actions taken by DHS are REVERSED.



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

Date Signed: January 11, 2013

Date Mailed: January 11, 2013

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.

201311396/CG

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/hw

cc:

