

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

IN THE MATTER OF:

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████████████████████
████████████████████

Reg. No.: 2013-49453
Issue No.: 3008; 5022
Case No.: ██████████
Hearing Date: June 26, 2013
County: Wayne (57)

ADMINISTRATIVE LAW JUDGE: Eric Feldman

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 June 26, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of Department of Human Services (Department or DHS) included ██████████ Eligibility Specialist, and ██████████, Family Independence Manger.

ISSUES

Did the Department properly close Claimant's Food Assistance Program (FAP) benefits due to her failure to establish paternity and/or obtain child support?

Did the Department properly close Claimant's Food Assistance Program (FAP) benefits due to her failure to comply with the verification requirements?

Did the Department properly deny Claimant's State Emergency Relief (SER) application due to her failure to establish paternity and/or obtain 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. On November 27, 2012, Claimant was in non-cooperation status with the Office of Child Support ("OCS"). Exhibit 1.

2. On February 7, 2013, Claimant applied for FAP benefits and received benefits for a group size one for the months of February and March 2013.
3. On February 7, 2013, the Department sent Claimant a Verification Checklist (“VCL”), which was due back by February 19, 2013. Exhibit 1.
4. Claimant never submitted the requested verification documents.
5. On February 21, 2013, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits would be closed effective April 1, 2013, ongoing, due to her failure to establish paternity and/or obtain child support and failure to comply with the verification requirements. Exhibit 1.
6. On March 21, 2013, Claimant applied for SER benefits.
7. On March 21, 2013, the Department sent Claimant a SER Decision Notice which denied Claimant her SER application due to her failure to establish paternity and/or obtain child support. Exhibit 1.
8. On March 26, 2013, Claimant filed a hearing request, protesting her (i) FAP closure and (ii) the SER denial. Exhibit 1.
9. On April 29, 2013, an Administrative Hearing was scheduled regarding Claimant’s March 26, 2013 hearing request.
10. On April 29, 2013, Claimant failed to attend her hearing.
11. On May 1, 2013, the Michigan Administrative Hearing System (MAHS) sent Claimant an Order of Dismissal that dismissed Claimant’s March 26, 2013 hearing request because she failed to attend her scheduled hearing.
12. On May 21, 2013, Claimant filed a new hearing request protesting her (i) FAP closure and (ii) the SER denial. Exhibit 1.

CONCLUSIONS OF LAW

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

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 Michigan Administrative Rule 400.3001 through Rule 400.3015.

The State Emergency Relief (SER) program is established by 2004 PA 344. The SER program is administered pursuant to MCL 400.10, *et seq.*, and by Mich Admin Rule 400.7001 through Rule 400.7049. Department policies are found in the Department of Human Services State Emergency Relief Manual (ERM).

Preliminary Matters

On March 26, 2013, Claimant filed a hearing request, protesting her (i) FAP closure and (ii) the SER denial. Exhibit 1. On April 29, 2013, an Administrative Hearing was scheduled regarding Claimant's March 26, 2013 hearing request. On April 29, 2013, Claimant failed to attend her hearing. On May 1, 2013, the MAHS sent Claimant an Order of Dismissal that dismissed Claimant's March 26, 2013 hearing request because she failed to attend her scheduled hearing. On May 21, 2013, Claimant filed a new hearing request protesting her (i) FAP closure and (ii) the SER denial. Exhibit 1. The May 21, 2013 hearing request also stated that she was unable to attend her original hearing request in April of 2013. The Department processed the request as a hearing request as opposed to a Request to Vacate the Dismissal Order.

Based on the foregoing information and evidence, IT IS ORDERED that Claimant's May 21, 2013 hearing request is GRANTED, and the Order of Dismissal dated May 1, 2013 is hereby VACATED.

Additionally, the Department did not provide a witness from the OCS to testify during the hearing. Thus, the hearing continued without an OCS caseworker present.

FAP Benefits – Verification

On February 7, 2013, Claimant applied for FAP benefits and received benefits for a group size one for the months of February and March 2013. On February 7, 2013, the Department sent Claimant a VCL, which requested verification of Claimant's checking account. Exhibit 1. The VCL was due back by February 19, 2013. Exhibit 1. Claimant never submitted the requested verification documents. Thus, on February 21, 2013, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits would be closed effective April 1, 2013, ongoing, due to her failure to comply with the verification requirements. Exhibit 1.

Clients must cooperate with the local office in completing necessary forms for determining initial and ongoing eligibility. BAM 105 (November 2012), p. 5. The client must obtain required verification, but the Department must assist if they need and request help. BAM 130 (May 2012), p. 3. If neither the client nor the Department can obtain verification despite a reasonable effort, the Department uses the best available information. BAM 130, p. 3. If no evidence is available, the Department uses its best judgment. BAM 130, p. 3.

For FAP cases, allow the client 10 calendar days to provide the verification the Department requests. BAM 130, p. 5. Also for FAP cases, if the client indicates refusal

to provide a verification or the time period given has elapsed and the client has not made a reasonable effort to provide it, then policy directs that a negative action be issued. BAM 130, p. 5.

At the hearing, Claimant agreed that she failed to provide the verification of her checking account by the due date. Based on the foregoing information, the Department properly closed Claimant's FAP benefits effective April 1, 2013, ongoing, due to her failure to comply with the verification requirements. BAM 130, p. 5.

FAP Benefits – Child Support

Additionally, the February 7, 2013 VCL also requested that Claimant comply with the OCS by February 19, 2013. Exhibit 1. Claimant was still in non-cooperation with the OCS by the due date. Thus, on February 21, 2013, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits would be closed effective April 1, 2013, ongoing, due to her failure to establish paternity and/or obtain child support. Exhibit 1.

The custodial 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 (December 2011), p. 1. Failure to cooperate without good cause results in disqualification. BEM 255, p. 1.

For FAP applications, client has 10 days to cooperate with the OCS. BEM 255, p. 10. The Department informs the client to contact the OCS in the verification check list (VCL). BEM 255, p. 10. The disqualification is imposed if client fails to cooperate on or before the VCL due date when all of the following are true: there is a begin date of non-cooperation in the absent parent logical unit of work; there is not a subsequent comply date; support/paternity action is still a factor in the child's eligibility; and good cause has not been granted nor is a claim pending. BEM 255, p. 10.

Also for FAP cases, failure to cooperate without good cause results in disqualification of the individual who failed to cooperate. BEM 255, p 11. The individual and his/her needs are removed from the FAP EDG for a minimum of one month. BEM 255, p 11. The remaining eligible group members will receive benefits. BEM 255, p 11.

At the hearing, the OCS was not present at the hearing to testify about Claimant's non-cooperation status. Claimant credibly testified that she attempted to contact the OCS multiple times before her VCL due date to resolve the non-cooperation. Claimant credibly testified that OCS requested the address and other information about the father to establish cooperation. Claimant testified that she was unable to provide this information to the OCS.

Based on the foregoing information and evidence, the Department is ordered to remove Claimant's non-cooperation status with the OCS. First, the Department still properly

closed Claimant's FAP benefits effective April 1, 2013, ongoing, due to her failure to comply with verification requirements. Second, Claimant credibly testified that she attempted to comply with the OCS. OCS was not present at the hearing to rebut Claimant's testimony nor able to explain why Claimant is in non-cooperation status. Thus, the Department is ordered to remove Claimant's non-cooperation status with the OCS.

SER Application

On November 27, 2012, Claimant was in non-cooperation status with the OCS. Exhibit 1. On March 21, 2013, Claimant applied for SER benefits. On March 21, 2013, the Department sent Claimant a SER Decision Notice which denied Claimant her SER application due to her failure to establish paternity and/or obtain child support. Exhibit 1.

Groups that are non-cooperative with the OCS are also ineligible for SER. ERM 203 (April 2011), p. 1. SER ineligibility continues as long as the group member fails or refuses to pursue potential resources. ERM 203, p. 2. Sanctioned groups that are able to comply are ineligible for SER until they comply. ERM 203, p. 2.

As previously discussed in the FAP Benefits – Child Support analysis, Claimant attempted to resolve her OCS non-cooperation. Claimant attempted to resolve her non-cooperation before her SER application. Thus, the Department failed to satisfy its burden showing that it acted in accordance with Department policy when it denied Claimant's SER application.

In summary, the Administrative Law Judge concludes that (i) the Department properly denied Claimant's FAP benefits; (ii) the Department is ordered to remove Claimant's non-cooperation status with the OCS; and (iii) the Department improperly denied Claimant's SER application.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated above and on the record, finds that (i) the Department properly denied Claimant's FAP benefits effective April 1, 2013, ongoing; (ii) the Department is ordered to remove Claimant's non-cooperation status with OCS; and (iii) the Department improperly denied Claimant's SER application dated March 21, 2013.

Accordingly, the Department's FAP decision is AFFIRMED IN PART for the case closure effective April 1, 2013, ongoing, and the FAP non-cooperation and SER denial is REVERSED for the reasons stated above and on the record.

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

1. Remove Claimant's non-cooperation status with the Office of Child Support;
2. Reregister and initiate processing of the SER application with the effective date of March 21, 2013;
3. Issue supplements to Claimant for any SER benefits she was eligible to receive from March 21, 2013 application; and
4. Notify Claimant in writing of its SER decision in accordance with Department policy;

IT IS ALSO ORDERED that Claimant's May 21, 2013 hearing request is GRANTED, and the Order of Dismissal dated May 1, 2013 is hereby VACATED.



Eric Feldman
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: July 3, 2013

Date Mailed: July 3, 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.

Request must be submitted through the local DHS office or directly to MAHS by mail at

2013-49453/EJF

Michigan Administrative hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

EJF/cl

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