

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

IN THE MATTER OF:

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

Reg. No.: 2013-50847
Issue No.: 3019
Case No.: ██████████
Hearing Date: June 27, 2013
County: Wayne (31)

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 27, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant, and ██████████ Claimant's family member. Participants on behalf of the Department of Human Services (Department) included ██████████, Eligibility Specialist.

ISSUE

Did the Department properly reduce Claimant's Food Assistance Program (FAP) benefits 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 April 10, 2012, Claimant was in non-cooperation status with the Office of Child Support ("OCS"). Exhibit 2, p. 1.
2. On May 14, 2013, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits decreased to \$367 effective June 1, 2013, ongoing, due to the non-cooperation with the OCS. Exhibit 1, pp. 6-9.
3. On May 28, 2013, Claimant filed a hearing request, protesting her FAP reduction. Exhibit 1, pp. 4-5.

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 Mich Admin Code, R 400.3001 through R 400.3015.

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

On April 10, 2012, Claimant was in non-cooperation status with the OCS. Exhibit 2, p. 1. On May 14, 2013, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits decreased to \$367 effective June 1, 2013, ongoing, due to the non-cooperation with the OCS. Exhibit 1, pp. 6-9. On May 28, 2013, Claimant filed a hearing request, protesting her FAP reduction. Exhibit 1, pp. 4-5.

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 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 has two children. Claimant testified that she originally had an issue with the OCS regarding her younger child a few years ago. However, the OCS issue regarding her younger son does not appear to be at issue in this hearing. Claimant testified that in February 2013, she received a different letter from the Department stating that her FAP benefits would decrease do to non-cooperation with the OCS. Claimant testified that she spoke to the Department in February 2013 and stated that the Department requested the address of her older son's father. Claimant testified that she provided it to the Department and had no other communication with the Department. Then, Claimant testified she learned again about the non-cooperation issue with the Notice of Case Action dated May 14, 2013. Exhibit 1, pp. 6-9.

Based on the foregoing information and evidence, the Department improperly disqualified Claimant from her FAP benefits. First, Claimant credibly testified that she complied with the non-cooperation by providing the father's information to the Department in February 2013. Second, the 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 failed to satisfy its burden showing that it acted in accordance with Department policy when it disqualified Claimant's from her FAP benefits effective June 1, 2013, ongoing. BEM 255, pp. 1 and 11 and see Exhibit 1, pp. 6-9.

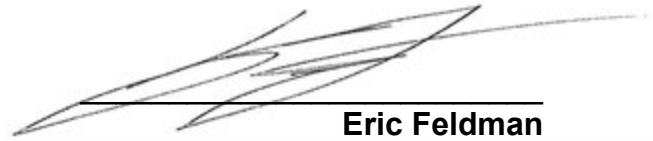
DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department did not act properly when it reduced Claimant's FAP benefits effective June 1, 2013, ongoing.

Accordingly, the Department's AMP FIP FAP MA SDA CDC decision is AFFIRMED REVERSED for the reasons stated 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. Remove Claimant's disqualification for her FAP benefits and reinstate her benefits as of June 1, 2013;
3. Issue supplements to Claimant for any FAP benefits she was eligible to receive from June 1, 2013, ongoing; and
4. Notify Claimant in writing of its FAP decision in accordance with Department policy.



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 affect the substantial rights of the claimant,
 - 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

EJF/cl

cc:

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[REDACTED]
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