

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201348308
Issue No.: 3019
Case No.: [REDACTED]
Hearing Date: June 19, 2013
County: Wayne County (#18)

ADMINISTRATIVE LAW JUDGE: MICHELLE HOWIE

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 following Claimant's May 16, 2013 request for a hearing. After due notice, a telephone hearing was conducted on Thursday, June 19, 2013, from Detroit, Michigan. The Claimant appeared and testified. Participants on behalf of Department of Human Services (Department) included [REDACTED] (Family Independence Manager) and [REDACTED] (Eligibility Specialist).

ISSUE

Whether the Department properly reduced Claimant's Food Assistant Program (FAP) benefits based on a child support sanction?

FINDINGS OF FACT

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

1. The Claimant is an ongoing FAP recipient with a group size of 2.
2. Effective March 25, 2013, the Office of Child Support (OCS) sanctioned Claimant for alleged non-cooperation because it did not have a copy of the final court adoption papers for Claimant's child. (Exhibit 1)
3. On March 30, 2013, the Department sent Notice of Case Action to Claimant's former address (16212 Lesure Detroit, MI) that her FAP benefits would decrease from \$367 to \$200 effective May 1, 2013, due to Claimant being removed from the group based on the child support sanction. (Exhibit 2)

4. On May 3, 2013 the Claimant contacted the Department and the OCS. She faxed a copy of the adoption papers to OCS, and a comply date of May 3, 2013 was put into the Department's system.
5. On May 11, 2013, the Department sent Notice of Case Action to Claimant's current address that her FAP benefits would increase to \$367 effective June 1, 2013. (Exhibit 3)
6. On May 16, 2013, the Department received Claimant's written hearing request disputing the action. (Exhibit 6)

CONCLUSIONS OF LAW

The Department of Human Services (DHS) 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.

Parents have a responsibility to meet their children's needs by providing support and/or cooperating with the department including the Office of Child Support ("OCS"), the Friend of the Court, and the prosecuting attorney to establish paternity and/or obtain support from an absent parent. BEM 255 (December 2011), p.1. Cooperation is a condition of eligibility. BEM 255, 1. The head of household and the 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, p.10.

For FAP purposes the failure of an individual to cooperate without good cause with OCS results in disqualification of that individual from the group. BEM 255. The remaining eligible group members will continue to receive benefits. Bridges will not restore or reopen benefits for a disqualified member until the client cooperates or support/paternity action is no longer needed. BEM 255. A disqualified member is returned to the eligible group the month after cooperation or after serving the one month disqualification. BEM 255, p. 12. A client may claim good cause for non-cooperation at any time. The Department should request the client to provide evidence of good cause within 20 calendar days of claim. The Department worker is responsible for determining if good

cause exists. Cooperation/support action is not required when legal proceedings for the adoption of the child are pending before a court. BEM 255, p. 3.

In this case, the Claimant was involved in legal adoption proceedings regarding a child that was finalized in May 2012. According to the OCS specialist, there was no record of receipt of the court adoption papers in the file for OCS to close the support case. In January and February 2013, the OCS sent contact letters; and on March 28, 2013, a non-cooperation letter was sent to Claimant's former address (16212 Lesure). Claimant had moved and updated her address to (29460 Glenwood) with the Department on February 1, 2013. It appears the Department worker updated Claimant's physical address but not the mailing address on the system. As a result Claimant did not receive the OCS letters or Notice of Case Action dated March 30, 2013.

On May 3, 2013, Claimant discovered that her FAP benefits were reduced and contacted the Department. She was told that it was due to an OCS sanction. She contacted OCS and faxed the court adoption papers the same day. The sanction was subsequently removed. Claimant testified credibly that she provided the same adoption papers to OCS in 2012, which resulted in the removal of a prior sanction for the same reason in March 2012. Her testimony was not refuted.

After review of the record, I find the evidence does not support a finding that Claimant failed to cooperate with OCS without good cause. Evidence shows Claimant had a valid reason for not responding to the OCS letters. Notably, she was not required to maintain an updated address with OCS since she did not have an active case. She did however update her address with the Department on February 1, 2013, but it was not fully changed by the Department. As a result, she was not receiving her mail. Further, policy provides that cooperation or support action is not required when legal proceedings for the adoption of the child are pending. Based on the testimony OCS was clearly aware of the pending adoption proceedings at the time of imposing the sanction in March 2013. Once Claimant became aware of the OCS issue she provided verification of good cause the same day. Based on the record, the Department did not establish by a preponderance of the evidence that Claimant failed to cooperate with OCS without good cause and thus was subject to disqualification from the receipt of FAP benefits.

Accordingly, the Department's action is not UPHOLD.

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 establish it acted properly when it reduced Claimant's FAP benefits effective May 1, 2013, due to disqualifying Claimant from the group for failure to cooperate with Office of Child Support without good cause.

Accordingly, the Department's FAP determination is hereby, **REVERSED**.

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

1. The Department shall issue a supplement for loss FAP benefits in May 2013 if Claimant is otherwise eligible and qualified in accordance with policy.

M. Howie

Michelle Howie
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 6/27/2013

Date Mailed: 6/27/2013

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

MH/hw

cc:

