

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-56227
Issue No.: 3008
Case No.: [REDACTED]
Hearing Date: August 6, 2013
County: Washtenaw

ADMINISTRATIVE LAW JUDGE: Susanne E. Harris

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 August 6, 2013, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED]. Participants on behalf of Department of Human Services (Department) included Lead Support Specialist (SS) from the Office of Child Support (OCS), [REDACTED] and Assistance Payments Supervisor, [REDACTED].

ISSUE

Did the Department properly reduce the Claimant's monthly Food Assistance Program (FAP) allotment due to her non-cooperation with the OCS?

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 was an ongoing recipient of monthly FAP benefits.
2. There is no DHS-1605, Notice of Case Action in evidence. Per the Department's hearing summary, on June 25, 2013, the Department sent the Claimant notice that her monthly FAP allotment would be reduced to \$ [REDACTED] effective August 1, 2013, because she failed to cooperate with the OCS.
3. On June 28, 2013, the Department received the Claimant's written hearing request protesting the reduction in her monthly FAP allotment.

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 Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 42 USC 601, *et seq.* The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, R 400.3101 through R 400.3131. FIP replaced the Aid to Dependent Children (ADC) program effective October 1, 1996.

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.

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105.

The Adult Medical Program (AMP) is established by 42 USC 1315, and is administered by the Department pursuant to MCL 400.10, *et seq.*

The State Disability Assistance (SDA) program, which provides financial assistance for disabled persons, is established by 2004 PA 344. The Department of Human Services (formerly known as the Family Independence Agency) administers the SDA program pursuant to MCL 400.10, *et seq.*, and 2000 AACS, R 400.3151 through R 400.3180.

The Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, the Child Care and Development Block Grant of 1990, and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The program is implemented by Title 45 of the Code of Federal Regulations, Parts 98 and 99. The Department provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001 through R 400.5015.

Bridges Eligibility Manual (BEM) 255 (2011) p.1, requires that all custodial parents must comply with all requests for action or information needed to establish paternity and/or obtain child support on behalf of whom they receive assistance, unless a claim of good cause for not cooperating has been granted or is pending. BEM 255, pp. 7, 8, provides that cooperation is a condition of eligibility and cooperation includes providing all known information about the absent parent.

In this case, the Claimant testified that she has provided all known information about the absent parent. The Claimant testified that the Department had determined earlier in the year that she was non-cooperative with the OCS, she had a hearing and Administrative Law Judge [REDACTED] found that the evidence was insufficient to establish that she was non-cooperative. However, her SS (which was not the Lead SS present at the hearing) said she did not care what Administrative Law Judge [REDACTED] ordered and put the Claimant back into non-cooperation status.

During the hearing, the Claimant testified that the non-custodial parent was [REDACTED] that he was [REDACTED] approximately 5'9" tall, had [REDACTED] and many tattoos. Specifically, he had a [REDACTED] on his neck. She met him at a party, they had sex and the encounter resulted in her child. The Lead SS testified that the OCS already had this information but it is still insufficient for the OCS to locate the non-custodial parent. The Administrative Law Judge concludes that the OCS's inability to locate the non-custodial parent does not establish that the Claimant is non-cooperative. It is the Department's burden of establishing that the Claimant is not providing all known information regarding the custodial parent. In this case, the evidence does not establish that the Claimant knows more about [REDACTED] that she has already disclosed. As such, the Administrative Law Judge determines that the evidence is insufficient to establish that the Claimant has not provided all known information regarding the non-custodial parent. The evidence is therefore also insufficient to establish that the Claimant was non-cooperative with the OCS and that the Department was acting according to its policy when taking action to sanction the Claimant's FAP case for not cooperating with the OCS.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law finds that the Department did not act properly when sanctioning the Claimant's FAP case.

Accordingly, the Department's AMP FIP FAP MA SDA CDC decision is AFFIRMED REVERSED.

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

1. Initiate action to remove the sanction from the Claimant's FAP case back to the date her case was sanctioned, and
2. Initiate action to issue the Claimant any supplement she may thereafter be due.

/s/ _____
Susanne E. Harris
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 8/9/13
Date Mailed: 8/12/13

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

SEH/tb

cc:

