

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

IN THE MATTER OF:



Reg. No.: 2013-56555
Issue No.: 3008
Case No.: [REDACTED]
Hearing Date: August 5, 2013
County: Wayne (82-19)

ADMINISTRATIVE LAW JUDGE: Michael J. Bennane

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 5, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED]

ISSUE

Did the Department properly remove Claimant from her Food Assistance Program (FAP) group?

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 recipient.
2. On May 2, 2013, the Department sent Claimant a Notice of Case Action announcing the pending decrease of Claimant's FAP due to her removal from her FAP group for non-cooperation with OCS.
3. On July 1, 2013, Claimant requested a hearing to protest the decrease in her 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 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.

At the hearing, Claimant testified that she had moved from her home due to domestic violence. Claimant further testified that family law attorneys were representing her and they were supposed to take care of the issues with the OCS.

Claimant further testified that she had called the OCS but was unable to make contact with them.

Claimant testified that the father of her children, presently her spouse, had signed the birth certificates and was listed on both.

This Administrative Law Judge heard Claimant respond to questions concerning the father, including giving the representative from the OCS the father's name, address, phone number, and some work-related information.

Department policy states:

VERIFICATION REQUIREMENTS

Good Cause

FIP, CDC Income Eligible, MA and FAP

A claim of good cause must be supported by written evidence or documented as credible. Assist clients in obtaining evidence if needed. See Verification Sources in this item for examples of acceptable evidence.

Verification of good cause due to domestic violence is required only when questionable. BEM 255 (December 2011).

It should be noted that communication between Claimant and the OCS was interrupted due to the domestic violence and that, given the circumstances, Claimant did not receive notices from the Department.


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 in removing Claimant from her FAP group for non-cooperation with the OCS due to domestic violence.

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. Accept documentation of Claimant's domestic violence reporting and initiate a review of her FAP eligibility in light of same.
2. Should the Department find that the domestic violence is documented, the Department will supplement for missed benefits since April 30, 2013.



Michael J. Bennane
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: August 21, 2013

Date Mailed: August 21, 2013

NOTICE OF APPEAL: 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 or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

A Request for Rehearing or Reconsideration may be granted when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The Department, AHR or the claimant must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date the hearing decision is mailed.

The written request must be faxed to (517) 335-6088 and be labeled as follows:

Attention: MAHS Rehearing/Reconsideration Request

If submitted by mail, the written request must be addressed as follows:

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

MJB/pf

cc:

