

**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.: 2014-3942
Issue No.: 3019
Case No.: ██████████
Hearing Date: November 6, 2013
County: Wayne (18)

ADMINISTRATIVE LAW JUDGE: Eric Feldman

HEARING DECISION

Following Claimant's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, a three-way telephone hearing was held on November 6, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department or DHS) included ██████████ Case Manager; ██████████ ██████████ Family Independence Manager; and ██████████ ██████████ Lead Child Support Specialist with the Office of Child Support (OCS).

ISSUE

Did the Department properly disqualify Claimant from her Food Assistance Program (FAP) benefits effective October 1, 2013, ongoing, 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. Claimant was an ongoing recipient of FAP benefits.
2. On July 15, 2013, the OCS sent Claimant a first contact letter.
3. On August 19, 2013, the OCS sent Claimant a second contact letter.
4. On September 16, 2013, the OCS sent Claimant a non-cooperation letter due to her lack of response.

5. As of September 16, 2013, Claimant was in non-cooperation with the OCS. See Exhibit 1.
6. On September 17, 2013, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits decreased to \$200 effective October 1, 2013, ongoing, due to Claimant's non-cooperation status with the OCS. Exhibit 1.
7. On September 30, 2013, Claimant filed a hearing request, protesting the decrease in her FAP benefits. See Exhibit 1.
8. On October 11 and 15, 2013, the OCS contacted the Claimant and left voicemails regarding the non-cooperation status.
9. As of November 6, 2013, the OCS backdated Claimant's compliance to reflect that she was in cooperation with it as of September 16, 2013.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), Department of Human Services Reference Tables Manual (RFT), and Department of Human Services Emergency Relief Manual (ERM).

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food Stamp Act of 1977, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 271.1 to 285.5. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10 and Mich Admin Code, R 400.3001 to .3015.

The custodial parent or alternative caretaker 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 (July 2013), p. 1.

Failure to cooperate without good cause results in disqualification. BEM 255, p. 2. Disqualification includes member removal, as well as denial or closure of program benefits, depending on the type of assistance (TOA). BEM 255, p. 2.

Cooperation is a condition of eligibility. BEM 255, p. 9. Cooperation is required in all phases of the process to establish paternity and obtain support. BEM 255, p. 9. It includes all of the following:

- Contacting the support specialist when requested.
- Providing all known information about the absent parent.
- Appearing at the office of the prosecuting attorney when requested.

- Taking any actions needed to establish paternity and obtain child support (including but not limited to testifying at hearings or obtaining genetic tests).

BEM 255, p. 9.

For FAP cases, failure to cooperate without good cause results in disqualification of the individual who failed to cooperate. BEM 255, p. 14. The individual and his/her needs are removed from the FAP EDG for a minimum of one month. BEM 255, p. 14. The remaining eligible group members will receive benefits. BEM 255, p. 14.

In this case, Claimant was an ongoing recipient of FAP benefits. On July 15, 2013, the OCS sent Claimant a first contact letter. On August 19, 2013, the OCS sent Claimant a second contact letter. On September 16, 2013, the OCS sent Claimant a non-cooperation letter due to her lack of response. As of September 16, 2013, Claimant was in non-cooperation with the OCS. See Exhibit 1. On September 17, 2013, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits decreased to \$200 effective October 1, 2013, ongoing, due to Claimant's non-cooperation status with the OCS. Exhibit 1. On October 11 and 15, 2013, the OCS contacted the Claimant and left voicemails regarding the non-cooperation status.

At the hearing, Claimant acknowledged that she received the contact letters and letter of non-cooperation. Claimant testified that she responded to the contact letters by providing the information requested. The OCS could not determine if it received any response from the Claimant; however, it acknowledged that there is a backlog and Claimant might have possibly submitted a response. Furthermore, Claimant testified that she called multiple times throughout the process and had difficulty getting a hold of the OCS. See Hearing Summary, Exhibit 1.

During the hearing, the OCS caseworker testified that it recognized Claimant has made an effort in attempting to provide the information regarding the absent parent. Thus, during the hearing, the OCS conducted an interview with the Claimant and obtained the necessary information regarding the absent parent. The OCS caseworker then testified that Claimant was in compliance and that she would backdate the cooperation to September 16, 2013.

Based on the foregoing information and evidence, the Department improperly disqualified Claimant from her FAP benefits effective October 1, 2013, ongoing. Claimant credibly testified that she called the Department multiple times and even responded to the OCS contact letters by providing the necessary information. BEM 255 states that cooperation is a condition of eligibility, which includes contacting the support specialist when requested and providing all known information about the absent parent. BEM 255, p. 9. Claimant was cooperating with the OCS because she was contacting the support specialist and provided all known information about the absent parent. Based on Claimant's credible testimony, she was in cooperation even before the Notice of Case Action was generated because she responded to the contact letters. Moreover,

the OCS acknowledged that Claimant has made an effort in attempting to provide the information regarding the absent parent during the process. Finally, the OCS conducted an interview and found Claimant to be in compliance and she backdated the cooperation to September 16, 2013. In essence, Claimant was in cooperation as of September 16, 2013 and she should have not been disqualified.

In summary, Claimant provided credible testimony that she was cooperative in all phases of the process as of today's hearing and she should have not been disqualified from her FAP benefits. BEM 255, p. 9.


DECISION AND ORDER

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it improperly disqualified Claimant from her FAP benefits effective October 1, 2013, ongoing.

Accordingly, the Department's FAP decision is REVERSED.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, 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, if any;
2. Reinstate Claimant's FAP case as of October 1, 2013, ongoing;
3. Begin recalculating the FAP budget for October 1, 2013, ongoing, in accordance with Department policy;
4. Issue supplements to Claimant for any FAP benefits she was eligible to receive but did not from October 1, 2013, ongoing; and
5. 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: November 14, 2013

Date Mailed: November 14, 2013

NOTICE OF APPEAL: 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.

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).

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

EJF/cl

cc:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]