

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

IN THE MATTER OF:

██████████
██████████
██████████

Reg. No.: 2014-7328
Issue No.: 1025; 3008
Case No.: ██████████
Hearing Date: November 21, 2013
County: Wayne (31)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 four-way hearing was held on November 21, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department or DHS) included ██████████, FIS Jet Worker ██████████ Lead Child Support Specialist from the Office of Child Support (OCS).

ISSUES

Did the Department properly close Claimant's FIP cash assistance and to reduce the Claimant's Food Assistance 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. Claimant was an ongoing recipient of FAP and FIP benefits See Exhibit 1.
2. On February 15, 2009, the OCS sent Claimant a first contact letter.
3. On August 21, 2013, the OCS sent Claimant a second contact letter, in which the Claimant did not respond.

4. On October 8, 2013 the OCS sent Claimant a non-cooperation letter due to her lack of response.
5. As of September 16, 2011, Claimant was and still is in non-cooperation with the OCS.
6. On October 7, 2013, Claimant contacted the Department (OCS) stating she does not know information about the absent father.
7. On October 10, 2013, the Department sent Claimant a Notice of Case Action notifying her that her FAP and FIP cash assistance benefits closed effective November 1, 2013, ongoing. See Exhibit 1.
8. Subsequent to October 25, 2013 the Claimant attempted to contact the Office of Child Support to determine what to do as she had no additional information.
9. On October 16, 2013, Claimant filed a hearing request, protesting her FAP closure and FIP closure.

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 Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10 and 400.57a and Mich Admin Code, R 400.3101 to .3131.

FAP benefits

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, pp. 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, pp. 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, pp. 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, pp. 14.

For FIP cases, failure to cooperate without good cause results in disqualification of the entire FIP group for failure to cooperate. BEM 255, pp.

In this case, Claimant was an ongoing recipient of FAP benefits and FIP benefits. Exhibit 1. On February 15, 2013 and August 21, 2013 the Claimant was sent a First and Final Customer Contact letter by the OCS. The Claimant and the OCS spoke on September 6, 2013 and the OCS received the Form 842 with information regarding the Claimant's known information regarding the alleged father of her child. The OCS sent a Noncooperation Notice on October 8, 2013 for failing to cooperate with the child support program for failing to respond to the two letters sent by OCS. The notice reasons were incorrect as the OCS notes indicate that it did receive a Form 842 on September 6, 2013.

Ultimately, the OCS determined the information provided by the Claimant was insufficient to determine and/or locate the individual identified as the father of Claimant's son. On October 25, 2013 the Claimant contacted the OCS again and left a message advising that she had no other information to offer. The OCS did not respond because there was no further information available.

At the hearing the Claimant credibly testified that she was 19 at the time her child was conceived and gave a last known address of [REDACTED] and clarified that the name of the child's father was [REDACTED] not [REDACTED] and his mother's name was [REDACTED]. At the time she knew him, [REDACTED] was

█ and she also believed that he attended █ in Detroit. The Claimant testified that she had no other information.

The OCS Lead Specialist testified that Claimant was still in non-cooperation because OCS needed a name and date of birth and social security number to pursue child support and Claimant failed to provide any identifying information. Thus, on October 10, 2013, the Department sent Claimant a Notice of Case Action notifying her that her FAP and FIP benefits would close effective November 1, 2013, ongoing. See Exhibit 1.

At the hearing, Claimant agreed she spoke to the OCS in November 2013. Claimant testified about the same information she previously provided to OCS and that the information was all the known information she could provide. Claimant testified that she does not know the absent father's current address, birth date or social security number and that at the time she became pregnant she advised him that she was pregnant and he said the child was not his. The Claimant had no other sexual partners at the time. and still does not know the identifying information that the OCS seeks. It is determined that the testimony provided by the Claimant was credible.

Based on the foregoing information and evidence, the Department improperly closed Claimant's FIP benefits and improperly reduced the Claimant's FAP benefits effective November 1, 2013, ongoing. Both parties agreed that Claimant contacted the OCS on several occasions regarding the absent father. 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.

The OCS caseworker testified that the Department needed additional information; however, Claimant provided credible testimony that she does not have any additional information regarding the absent father. Claimant is unable to provide any additional information. Claimant was cooperative in responding to the OCS process when she contacted the OCS on September 6, October 7, 2013 and October 25, 2013. Exhibit 2 pp. 2. Thus, she was in cooperation as of the October 8, 2013 Noncooperation Notice because she contacted the specialist and had given OCS all the information she then had available. The Claimant also went to the house where she had met Deandre Brown and provided the address of the house. No one is presently living in the home. BEM 255, p. 9.

Based upon the foregoing it is found that Claimant was in cooperation and the closure(s) should have not occurred. The Department thus is required to remove the disqualification(s) and reinstate the FIP benefits and reinstate Claimant to her FAP group effective November 1, 2013.

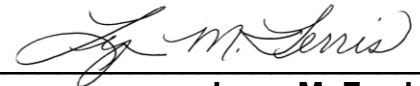
DECISION AND ORDER

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 (i) did not act in accordance with Department policy when it improperly closed Claimant's FIP benefits and removed her from her FAP group benefits effective November 1, 2013, ongoing;

Accordingly, the Department's 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. Shall initiate removal of Claimant's non-cooperation status with the Office of Child Support,
2. Remove Claimant's FAP group disqualification in accordance with Department policy, if any;
3. Reinstate Claimant to her FAP group as of November 1, 2013, ongoing;
4. Reinstate the Claimant's FIP benefits as of November 1, 2013;
5. Issue supplements to Claimant for any FIP benefits and FAP benefits she was eligible to receive but did not from November 1, 2013, ongoing; and
6. Notify Claimant in writing of its FAP and FIP recalculation in accordance with Department policy.



Lynn M. Ferris
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: November 26, 2013

Date Mailed: November 26, 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

LMF/cl

cc: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]