

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

IN THE MATTER OF:



Reg. No.: 20142968
Issue No.:
Case No.:
Hearing Date: November 7, 2013
County: Saginaw

ADMINISTRATIVE LAW JUDGE: Gary F. Heisler

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 telephone hearing was held on November 7, 2013, from Lansing, Michigan. Claimant appeared and testified. Participants on behalf of the Department of Human Services (Department) included FIM . Unsuccessful attempts were made to include Support Specialist Lead Worker via conference call. Technical difficulties with the telephone system prevented his participation.

ISSUE

Did the Department properly close Claimant's Family Independence Program (FIP) on October 1, 2013, for failure to cooperate with the Office of Child Support?

Did the Department properly remove Claimant from her Food Assistance Program (FAP) benefit group on October 1, 2013 for failure to cooperate with the Office of 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 Family Independence Program (FIP) and Food Assistance Program (FAP) benefits. Claimant's benefit group consisted of herself and her two children.
2. On August 31, 2013, Claimant was sent a Noncooperation Notice from the Office of Child Support.

3. On September 3, 2013, Claimant was sent a Notice of Case Action (DHS-1605) which stated her Family Independence Program (FIP) would close and her Food Assistance Program (FAP) benefits would decrease beginning October 1, 2013.
4. On September 16, 2013, Claimant submitted a request for hearing.

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 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.

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.

During this hearing it was determined that the Office of Child Support sent Claimant a letter dated October 22, 2013, which required her to provide information by November 12, 2013. All the documentation in evidence from the Department was produced before October 7, 2013 when this hearing packet was received by Michigan Administrative Hearing System (MAHS). No one from the Office of Child Support was present to provide an explanation of the more current developments in this case. A detailed analysis of the evidence presented, applicable Department policies, and reasoning for the decision are contained in the recorded record. During the hearing Claimant was informed of the decision and the reasoning behind the decision.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it made this eligibility determination on September 3, 2013.

DECISION AND ORDER

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. Reinstate Claimant's Family Independence Program (FIP) and Food Assistance Program (FAP) and process any required future action in accordance with Department policy.
2. Supplement Claimant any benefits she was otherwise eligible for but did not receive based on the Department's September 3, 2013 eligibility determination.

/s/
Gary F. Heisler
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 11/13/2013

Date Mailed: 11/13/2013

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.

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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

GFH/sw

cc:

