

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

IN THE MATTER OF:

██████████
██████████
██████████

Reg. No.: 2014-10979
Issue Nos.: 1011, 3011
Case No.: ██████████
Hearing Date: December 5, 2013
County: Wayne (82-17)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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 December 5, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████
██████████

ISSUE

Did the Department properly close Claimant's Family Independence Program (FIP) case and reduce her Food Assistance Program (FAP) benefits for noncooperation with child support reporting obligations?

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.
2. On September 30, 2013, the Department sent Claimant a Notice of Case Action informing her that, effective November 1, 2013, her FIP case would close and her FAP benefits would be reduced because she had failed to cooperate in establishing paternity or securing child support.
3. On November 4, 2013, Claimant filed a hearing request, protesting the Department's actions concerning her FAP and FIP cases.

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.

Additionally, Department policy requires that the custodial parent 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 (October 2013), p. 1.

At the hearing, the prosecuting attorney testified that a complaint for paternity was filed on Claimant's behalf, and, in response, the purported father requested genetic testing to confirm his paternity of the two children at issue. The prosecuting attorney sent a notice to Claimant on July 15, 2013, ordering her to appear with one of the children at issue for the collection of genetic samples on August 15, 2013. The prosecuting attorney sent another notice on August 26, 2013, ordering Claimant to appear with the other child at issue for the collection of genetic samples on September 20, 2013. At the hearing, the prosecuting attorney testified that Claimant did not appear at either of the two appointments. After she was sent a September 30, 2013, Noncooperation Notice advising her that her benefits would be affected, Claimant contacted the prosecutor's office on October 15, 2013, to reschedule the genetic testing appointment at which point she was sent another notice to appear with both children on December 4, 2013. Claimant appeared at this appointment and was placed in compliance as of December 4, 2013.

At the hearing, Claimant testified that she never received the July 15, 2013, notice. However, the evidence established that she received the other notices sent by the prosecuting attorney and all the notices were sent to Claimant at the address she verified on the record. Under these facts, Claimant failed to rebut the presumption that she received a notice sent by the prosecutor's office in its ordinary course of business.

See *Good v Detroit Automobile Inter-Insurance Exchange*, 67 Mich App 270, 275-278 (1976).

Claimant further contended that she had contacted the prosecutor's office after she received the August 26, 2013, notice to appear to reschedule the appointment because she had injured her foot. The prosecuting attorney credibly testified that the first contact Claimant made with her office was on October 15, 2013, noting that the office's schedulers kept a log of contacts with clients and Claimant's log showed no contact from Claimant prior to October 15, 2013.

The evidence at the hearing established that Claimant failed to cooperate with her child support obligations until December 4, 2013. Failure to cooperate without good cause prior to the timely hearing request date results in FIP group ineligibility for a minimum of one-month and in disqualification from the FAP group of the individual who failed to cooperate. BEM 255, pp. 2, 11, 13-14. In this case, the timely hearing request day for the September 30, 2013, Notice of Case Action notifying Claimant of the child support sanction was October 11, 2013. Because the Department established that Claimant was not in compliance with her child support obligations until December 4, 2013, the Department acted in accordance with Department policy when it closed Claimant's FIP case and reduced her FAP benefits by removing her as a member of her FAP group.

At the hearing, Claimant was advised to reapply for FIP, and the Department worker indicated Claimant's FAP benefits would be recalculated to include Claimant as a group member. Claimant is advised to request a hearing if she is not satisfied with the Department's subsequent actions concerning her FIP application and FAP case.

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 acted in accordance with Department policy when it closed Claimant's FIP case and reduced her FAP benefits.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED.



Alice C. Elkin
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: December 10, 2013

Date Mailed: December 10, 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

ACE/pf

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