

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

IN THE MATTER OF:

██████████
██████████
██████████

Reg. No.: 2014-11129
Issue No(s): 1011
Case No.: ██████████
Hearing Date: December 5, 2013
County: Wayne (31)

ADMINISTRATIVE LAW JUDGE: Susan C. Burke

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 ██████████ ██████████, FIS, and ██████████, Child Support Specialist.

ISSUE

Did the Department properly sanction Claimant's case, close Claimant's Family Independence Program (FIP) case and decrease Claimant's Food Assistance Program (FAP) benefits due to noncooperation with child support matters?

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 received Family Independence Program (FIP) and Food Assistance (FAP) benefits.
2. On April 11, 2013, the Office of Child Support (OSS) issued a First Customer Contact Letter, instructing Claimant to complete a DHS-842 form or call the OSS specialist.
3. Claimant completed the DHS-842 form and submitted it to the OSS pursuant to the April 11, 2013 OSS request.
4. Claimant also attempted to contact the OSS specialist by phone unsuccessfully, finally contacting the specialist's supervisor. (July 2, 2013 Note by JohnsonY)
5. Claimant completed a DHS 842 again and forwarded it to the OSS.
6. The OSS noted receipt of the DHS 842 on September 24, 2013.
7. The OSS was in transition during Claimant's attempt to contact the OSS.
8. The Department placed Claimant in Noncooperation Status on October 18, 2013.
9. On October 22, 2013, the Department issued a Notice of Case Action, informing Claimant that her FIP case would close and her FAP benefits would be decreased, effective December 1, 2013, due to failing to cooperate in establishing paternity or securing child support.
10. On October 29, 2013, Claimant requested a hearing, protesting the action of the Department.
11. Claimant's DHS-842 was consistent with Claimant's interview with the OSS on October 29, 2013 and with her testimony at the hearing.

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 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.

Clients 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. Failure to cooperate without good cause results in disqualification. Disqualification includes member removal, denial of program benefits, and/or case closure, depending on the program. BEM 255

BEM 255, p. 7 instructs:

Cooperation is required in all phases of the process to establish paternity and obtain support. 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 blood tests).

Regulations governing the Office of Child Support (OCS) can be found in the IV-D Manual (4DM).

Non-cooperation exists when a client, without good cause, willfully and repeatedly fails or refuses to provide information and/or take an action resulting in delays or prevention of support action. 4DM 115.

Before finding a client non-cooperative, the Support Specialist must establish and document that the client failed and/or refused to provide known or obtainable information and/or to take an action without an acceptable reason or excuse. 4DM 115. The goal of the cooperation requirement is to obtain support. Support specialists should find non-cooperation only as a last resort. There is no minimum information requirement. 4DM 115.

Several factors may affect a client's ability to remember or obtain information. In evaluating cooperation, the Support Specialist should consider such factors as client's marital status, duration of relationship and length of time since last contact with the non-custodial parent. A client who was married to the non-custodial parent or knew the putative father for several months can reasonably be expected to provide identifying and location information. The extent and age of location information obtainable may be

affected by how long it has been since the parties last lived together or had personal contact. 4DM 115.

In the present case, On [REDACTED] issued a First Customer Contact Letter, instructing Claimant to complete a DHS-842 form. Claimant testified credibly that she completed the DHS-842 form and submitted it to the OSS pursuant to the [REDACTED] OSS request. Claimant also attempted to contact the OSS specialist by phone several times, with no return phone call by the OSS. Claimant finally contacted the specialist's supervisor. ([REDACTED] Note by J [REDACTED] Claimant completed a DHS 842 again and forwarded it to the OSS. The OSS noted receipt of the DHS 842 on [REDACTED]. The representative at the hearing from OSS noted that OSS was in transition during Claimant's attempt to contact the OSS.

The Department placed Claimant in Noncooperation Status on [REDACTED]. On [REDACTED], the Department issued a Notice of Case Action, informing Claimant that her FIP case would close and her FAP benefits would be decreased, effective [REDACTED], due to failing to cooperate in establishing paternity or securing child support.

In reviewing the OSS case notes and listening carefully to the testimony of the parties, it is concluded that Claimant's DHS-842 was consistent with Claimant's interview with the OSS on [REDACTED] and consistent with her testimony at the hearing. Per the testimony of the OSS representative at the hearing, OSS was in transition at the time Claimant was attempting to contact OSS, so it is likely that OSS was not returning Claimant's phone calls as Claimant testified. It is not found that Claimant failed and/or refused to provide known or obtainable information. It is noted that there is no minimum information requirement. 4DM115

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 placed a child support sanction on Claimant's case, closed Claimant's FIP case and decreased Claimant's FAP benefits.

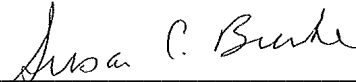
DECISION AND ORDER

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. Remove the child support sanction from Claimant's case imposed on October 18, 2013, engaging the Office of Child Support if necessary.

2. Reinstate Claimant's FIP case and restore Claimant's FAP benefits, effective December 1, 2013.
3. Issue FIP and FAP supplements, in accordance with Department policy.



Susan C. Burke
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

2014-11129/SCB

SCB/tm

cc:

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