

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

**IN THE MATTER OF:**

████████████████████  
████████████████████  
████████████████████

Reg. No.: 2014-11155  
Issue No.: 3011  
Case No.: ██████████  
Hearing Date: December 5, 2013  
County: Wayne (43)

**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 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 or DHS) included ██████████ ██████████ Partnership. Accountability. Training. Hope. (PATH) worker. The Office of Child Support (OCS) was not present for the hearing.

**ISSUE**

Did the Department properly disqualify Claimant from her Food Assistance Program (FAP) 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 benefits.
2. On September 22, 2013, the OCS sent Claimant a first contact letter. See Exhibit 1.
3. On October 12, 2013, the OCS sent Claimant a second contact letter. See Exhibit 1.

4. Effective October 28, 2013, Claimant was and still is in non-cooperation with the OCS. See Exhibit 1.
5. On October 30, 2013, the OCS sent Claimant a non-cooperation letter due to her lack of response.
6. On October 30, 2013, the Department disqualified Claimant from her FAP benefits effective December 1, 2013, ongoing, due to her failure to establish paternity and/or obtain child support. Exhibit 1.
7. On November 1, 2013, Claimant filed a hearing request, protesting her FAP benefits. See Exhibit 1.

### **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.

As a preliminary matter, the Administrative Law Judge (ALJ) made several attempts to contact the OCS caseworker, however, it was unsuccessful. Thus, the hearing proceeded with no OCS caseworker present.

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 (October 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 September 22, 2013, the OCS sent Claimant a first contact letter. See Exhibit 1. On October 12, 2013, the OCS sent Claimant a second contact letter. See Exhibit 1. On October 30, 2013, the OCS sent Claimant a non-cooperation letter due to her lack of response. The Department presented as evidence a supplemental hearing summary which indicated that Claimant failed to call or provide information in response to the above three letters. See Exhibit 1. Effective October 28, 2013, Claimant was and still is in non-cooperation with the OCS. See Exhibit 1. On October 30, 2013, the Department disqualified Claimant from her FAP benefits effective December 1, 2013, ongoing, due to her failure to establish paternity and/or obtain child support. See Exhibit 1.

At the hearing, Claimant testified that she received the first contact letter and attempted to call the OCS, however, she was unable to get in contact with an OCS caseworker. Claimant testified that she also received the second contact letter, which contained a Child Support Information form (DHS-842). See Exhibit 1. Claimant testified that she completed this form and mailed it back to the OCS with all known information about the absent parent. Claimant also acknowledged she received the non-cooperation letter dated October 30, 2013. Finally, in the middle of November 2013, Claimant testified that she spoke to an OCS caseworker and provided all known information about the absent parent. Claimant testified that the OCS caseworker did not indicate if she was in cooperation because it had to process the information provided.

It should be noted that the Department provided an updated child support non-cooperation summary, which showed two non-cooperation dates of October 28, 2013. See Exhibit 1. The first line indicates that Claimant is still in non-cooperation as of October 28, 2013. See Exhibit 1. However, the second line indicates that Claimant is in cooperation as of October 28, 2013. See Exhibit 1. Based on this information, it is still determined that Claimant is in non-cooperation.

Based on the foregoing information and evidence, the Department improperly disqualified Claimant from her FAP benefits effective December 1, 2013. Claimant credibly testified that she was attempting to contact the OCS in regards to providing information about the absent parent. 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 OCS caseworker and provided all known information about the absent parent. Moreover, Claimant even responded to the Department by completing the Child Support Information form (DHS-842) when requested. It is found that Claimant was cooperative in all phases of the process before the negative action date because she was contacting/responding to the OCS from September to November 2013. Also, the OCS failed to be present for the hearing to rebut Claimant's testimony. The Department is ordered to remove Claimant's disqualification.

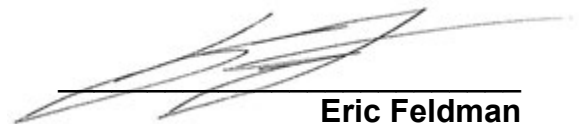
**DECISION AND ORDER**

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 December 1, 2013.

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. Remove Claimant's FAP disqualification effective December 1, 2013, ongoing;
3. Begin recalculating the FAP budget for December 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 December 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: 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

EJF/cl

cc:

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