

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-13611
Issue Nos.: 1028, 3008
Case No.: [REDACTED]
Hearing Date: February 28, 2013
County: Macomb (50-30)

ADMINISTRATIVE LAW JUDGE: Jonathan W. Owens

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 following Claimant's request for a hearing. After due notice, an in-person hearing was held on February 28, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED].

ISSUE

Did the Department properly close Claimant's Family Independence Program (FIP) case and reduce Claimant's Food Assistance Program (FAP) case benefits?

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 applied for benefits received benefits for:

- | | |
|--|---|
| <input checked="" type="checkbox"/> Family Independence Program (FIP). | <input type="checkbox"/> Adult Medical Assistance (AMP). |
| <input checked="" type="checkbox"/> Food Assistance Program (FAP). | <input type="checkbox"/> State Disability Assistance (SDA). |
| <input type="checkbox"/> Medical Assistance (MA). | <input type="checkbox"/> Child Development and Care (CDC). |

2. On October 1, 2012, the Department reduced Claimant's FAP benefits and closed Claimant's FIP case due to failure to cooperate with the Office of Child Support.

3. On August 28, 2012, the Department sent
 Claimant Claimant's Authorized Representative (AR)
notice of the denial. closure/reduction.
4. On November 15, 2012, Claimant filed a hearing request, protesting the
 denial of the application. closure/reduction of the cases.

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, Public Law 104-193, 42 USC 601, *et seq.* The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10, *et seq.*, and 1999 AC, Rule 400.3101 through Rule 400.3131. FIP replaced the Aid to Dependent Children (ADC) program effective October 1, 1996.

The Food Assistance Program (FAP) [formerly known as the Food Stamp (FS) program] is established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations (CFR). The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, *et seq.*, and 1999 AC, Rule 400.3001 through Rule 400.3015.

On September 18, 2011, a contact letter was sent to Claimant. On May 10, 2012 a second contact letter was issued to Claimant. The Department testified that Claimant failed to contact the Office of Child Support. On August 25, 2011, a non cooperation letter was issued. On September 12, 2012, Claimant contacted the Office of Child Support. The Department indicated that Claimant still failed to provide enough identifying information.

Claimant testified credibly she made numerous attempts to contact the Office of Child Support after receiving both letters. She was unable to talk to her specialist. She testified she left messages but never received a call back. Claimant testified she had previously provided the father's name and age to the Department. Claimant testified she has no other information to provide regarding the father of her child. Claimant further testified she had no issue with cooperating in the establishment of paternity on her child.

The Department testified the basis for the non cooperation was due to Claimant being in the best place to try to obtain additional information. The Department indicated they had requested that Claimant attempt to garner additional information from friends and possibly where she thought the father had worked. The Department testified that, given the limited information provided, the Department has been unable to locate the child's purported father.

Claimant rebutted the Department's assertion she could obtain additional information regarding the child's father. Claimant testified she had provided what she knew and the parties she attended with the alleged father were with her friends. She introduced him to her friends so her friends and family that met him only knew what she knew about him. As for being able to get more information from his employer, Claimant testified she only knew he said he worked for [REDACTED]. She had no clue which [REDACTED] he worked for.

Relevant policy can be found in BEM 255, pp. 7-8:

COOPERATION

FIP, CDC Income Eligible, MA and FAP

Cooperation is a condition of eligibility. The following individuals who receive assistance on behalf of a child are required to cooperate in establishing paternity and obtaining support, unless good cause has been granted or is pending:

- Grantee (head of household) and spouse.
- Specified relative/individual acting as a parent and spouse.
- Parent of the child for whom paternity and/or support action is required.

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 genetic tests).

In the above case, the Department indicated that Claimant was sent two letters requesting she contact the Department. According to the Department, Claimant failed to contact the Department until after the non cooperation sanction had been implemented. However, Claimant testified she had, in fact, called the Department following each contact letter and left voicemails for her specialist. Claimant indicated she was never called back regarding these messages.

On September 12, 2012, the Department indicated that Claimant was asked to make attempts to get additional information regarding the child's father and provide it to the Department. Claimant testified she had no means of obtaining additional information regarding the child's father since she has no contact with him nor does she know where he is located.

After reviewing the policy, this Administrative Law Judge finds the Department has failed to demonstrate that Claimant has been non cooperative with efforts to establish paternity. When asked at hearing, the Department was not able to say that Claimant "knew" more information than she was providing - only that they believed she could obtain more information.

Based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, the Administrative Law Judge concludes that the Department improperly closed Claimant's FIP case and reduced Claimant's FAP benefits.


DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department did act properly. did not act properly.

Accordingly, the Department's AMP FIP FAP MA SDA CDC decision is AFFIRMED REVERSED for the reasons stated on the record.

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Remove the non cooperation from Claimant's case;
2. Reinstate Claimant's benefits for both FIP and FAP;
3. Supplement Claimant for any loss in benefits if otherwise eligible.



Jonathan W. Owens
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: March 4, 2013

Date Mailed: March 4, 2013

NOTICE: 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)

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 was made, within 30 days of the receipt date of the rehearing decision.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
 - misapplication of manual policy or law in the hearing decision,
 - typographical errors, mathematical error, or other obvious errors in the hearing decision that effect the substantial rights of the claimant:
 - the failure of the ALJ to address other relevant issues in the hearing decision.

Request must be submitted through the local DHS office or directly to MAHS by mail at
Michigan Administrative Hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

JWO/pf

cc:

