

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

IN THE MATTER OF:



Reg. No.: 201317644
Issue No.: 2006
Case No.: [REDACTED]
Hearing Date: January 23, 2013
County: Wayne (15)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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, a telephone hearing was held on January 23, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant; [REDACTED] and [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED], PATH Case Manager.

ISSUE

Did the Department properly reduce Claimant's Food Assistance Program (FAP) benefits effective December 1, 2012, due to noncooperation with 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 FAP recipient.
2. On November 9, 2012, the Department sent Claimant a Notice of Case Action notifying her that, effective December 1, 2012, she would be removed as a qualified member of her FAP group and her FAP benefits would be reduced.
3. On December 19, 2012, Claimant filed a hearing request, disputing the Department's action.

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 Mich Admin Code, R 400.3101 through R 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 Mich Admin Code, R 400.3001 through R 400.3015.

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105.

The Adult Medical Program (AMP) is established by 42 USC 1315, and is administered by the Department pursuant to MCL 400.10, *et seq.*

The State Disability Assistance (SDA) program, which provides financial assistance for disabled persons, is established by 2004 PA 344. The Department of Human Services (formerly known as the Family Independence Agency) administers the SDA program pursuant to MCL 400.10, *et seq.*, and 2000 AACRS, R 400.3151 through R 400.3180.

The Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, the Child Care and Development Block Grant of 1990, and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The program is implemented by Title 45 of the Code of Federal Regulations, Parts 98 and 99. The Department provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001 through R 400.5015.

Additionally, a client's cooperation with paternity and obtaining child support is a condition of FAP eligibility. BEM 255 (December 1, 2011), p 1. Parents 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, p 1. Failure to cooperate without good cause results in disqualification for the adult member who fails to cooperate, which for FAP cases results in the disqualification of the individual from the FAP group until the later of one month or when the individual cooperates. BEM 255, 9-10, 11.

In this case, the Department testified that the noncooperation at issue involved Claimant's son [REDACTED]. Claimant credibly testified that [REDACTED] was adopted, that she contacted the Office of Child Support (OCS) in September 2012 when she was first advised of an issue concerning [REDACTED] and that she provided documentation of the adoption to the OCS at that time and believed that the noncooperation issue had been resolved. At the hearing, the Department had no knowledge concerning the noncooperation at issue and acknowledged that OCS had not provided any information concerning Claimant's matter. Under these circumstances, the Department did not satisfy its burden of showing that it acted in accordance with Department policy when it closed Claimant's FAP case for child support noncooperation.

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 when .
 did not act properly when it reduced Claimant's FAP benefits for failure to cooperate with child support reporting obligations.

Accordingly, the Department's decision is AFFIRMED REVERSED for the reasons stated on the record and above.

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

1. Remove the child support noncooperation concerning [REDACTED] from Claimant's record;
2. Begin recalculating Claimant's FAP benefits, in accordance with Department policy and consistent with this Hearing Decision, to include Claimant as a group member, for December 1, 2012, ongoing; and
3. Issue supplements for any FAP benefits Claimant was otherwise eligible to receive but did not from December 1, 2012, ongoing.



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

Date Signed: January 30, 2013

Date Mailed: January 30, 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

ACE/cl

cc:

