

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

IN THE MATTER OF:



Reg. No.: 201335162
Issue No.: 1005, 3008
Case No.: [REDACTED]
Hearing Date: April 15, 2013
County: Wayne DHS (43)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 April 15, 2013 from Detroit, Michigan. Participants included the above-named claimant. Participants on behalf of Department of Human Services (DHS) included [REDACTED], Specialist.

ISSUES

The issue is whether DHS properly affected Claimant's eligibility for Food Assistance Program (FAP) and Family Independence Program (FIP) benefits due to an alleged failure by Claimant to cooperate with establishing 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 and FIP benefit recipient.
2. On an unspecified date, DHS determined that Claimant was uncooperative with obtaining child support for her son.
3. On 1/22/13, DHS imposed a child support disqualification causing a termination of FIP benefit eligibility, effective 3/2013.
4. On an unspecified date, DHS terminated Claimant's FAP benefit eligibility, effective 3/2013, due to unspecified reasons.

5. On 3/12/13, Claimant requested a hearing to dispute the child support disqualification and its impact on FAP and FIP benefit eligibility.

CONCLUSIONS OF LAW

The Family Independence Program (FIP) is a block grant that was established by the Social Security Act. Public Act (P.A.) 223 of 1995 amended P.A. 280 of 1939 and provides a state legal base for FIP. FIP policies are also authorized by the Code of Federal Regulations (CFR), Michigan Compiled Laws (MCL), Michigan Administrative Code (MAC), and federal court orders. Amendments to the Social Security Act by the U.S. Congress affect the administration and scope of the FIP program. The U.S. Department of Health and Human Services (HHS) administers the Social Security Act. Within HHS, the Administration for Children and Families has specific responsibility for the administration of the FIP program. DHS policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

Claimant requested a hearing because of FAP and FIP benefit terminations. DHS contended that both actions occurred because Claimant was uncooperative with providing paternity information for her son. Claimant contended that the terminations occurred because of some alleged failure to verify information. During the hearing, DHS obtained the Notice of Case Action dated 1/22/13. DHS testified that the listed reason for FIP closure was Claimant's failure to cooperate with child support. No other evidence was presented to determine the basis for the FIP benefit termination. It is found that the FIP termination occurred due to Claimant's failure to cooperate with child support.

Concerning FIP benefit eligibility, 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 (12/2011), p. 1. Failure to cooperate without good cause results in disqualification. *Id.* Disqualification includes member removal, as well as denial or closure of program benefits, depending on the type of assistance. *Id.* The support specialist (i.e. OCS) determines cooperation for required support actions. *Id.*, p. 8. For FIP benefits, any individual required to cooperate who fails to cooperate without good cause causes group ineligibility for a minimum of one month.

Claimant initially conceded that she made no attempts to contact OCS concerning her son's paternity. Claimant testified that she instead provided paternity information to her benefit specialist. The testifying specialist responded that she was unaware of any such attempts by Claimant. After Claimant was asked why she did not contact OCS, Claimant then testified that she attempted to contact OCS. Claimant's change in testimony made her appear less than credible concerning her alleged attempts to contact OCS.

Claimant testified that she remained in contact with her son's father since the birth of the child. Generally, such testimony is consistent with a person who is cooperative in establishing paternity. However, it was established that Claimant's son's Verification of Birth did not list a father, even though her child was named after the father. Claimant could not satisfactorily explain why she did not list paternal information on the birth verification.

It was not disputed that Claimant became cooperative with child support shortly after Claimant's FIP benefit eligibility ended. By itself, this evidence is consistent with someone who is cooperative. However, when considered with other evidence, the most probable explanation is that Claimant was not cooperative until DHS threatened Claimant's benefit eligibility. Based on the presented evidence, it is found that DHS properly found Claimant to be uncooperative in establishing child support and that the subsequent FIP termination was proper.

The Food Assistance Program (formerly known as the Food Stamp 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). DHS administers the FAP pursuant to Michigan Compiled Laws 400.10, *et seq.*, and Michigan Administrative Code R 400.3001-3015. DHS regulations are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT). Office of Child Support (OCS) policies are located in the Combined IV-D Policy Manual (4DM) and Child Support Manual (CSM).

The finding that DHS properly imposed an employment disqualification against Claimant applied equally to the FAP benefit analysis. The result is not necessarily applicable.

For FAP benefits, a failure to cooperate without good cause results in disqualification of the individual who failed to cooperate. *Id.* Disqualification of a group member typically results in a benefit reduction, not case closure. In a group size of three or more members without any income, a FAP benefit reduction is probable; FAP benefit termination is improbable. It is also probable that the Notice of Case Action referenced by DHS involved a FAP benefit reduction or cited a reason other than a child support disqualification to justify a FAP benefit termination. Because DHS did not provide sufficient evidence to justify the FAP benefit termination, the termination is found to be improper.

It was not disputed that Claimant became FAP eligible effective 3/12/13- the date that Claimant reapplied for FAP benefits. Claimant is entitled to FAP benefits from the effective date of the termination (3/1/13) through the last date she did not receive FAP benefits (3/11/13).

DECISION AND ORDER


The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly terminated Claimant's FIP benefit eligibility, effective

3/2013, due to a child support disqualification. The actions taken by DHS are PARTIALLY AFFIRMED.

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly terminated Claimant's FAP benefit eligibility. It is ordered that DHS:

- (1) reinstate Claimant's FAP benefit eligibility, effective 3/1/13, subject to the finding that DHS failed to justify a FAP termination effective 3/2013; and
- (2) supplement Claimant for improperly unissued FAP benefits from 3/1/13-3/11/13.

The actions taken by DHS are REVERSED.


Christian Gardocki
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 4/23/2013

Date Mailed: 4/23/2013

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

CG/hw

cc:

