

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

IN THE MATTER OF:



Reg. No.: 201338369
Issue No.: 3008
Case No.: [REDACTED]
Hearing Date: April 25, 2013
County: Wayne DHS (19)

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 25, 2013, from Detroit, Michigan. Participants included the above-named claimant. Participants on behalf of Department of Human Services (DHS) included [REDACTED], Specialist.

ISSUE

The issue is whether DHS properly reduced Claimant's Food Assistance Program (FAP) benefit eligibility due to Claimant's alleged failure 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 benefit recipient.
2. On an unspecified date, DHS sanctioned Claimant for not cooperating with the Office of Child Support.
3. On 3/20/13, DHS initiated a reduction of Claimant's FAP benefit eligibility, effective 4/2013, for Claimant's alleged lack of cooperation.
4. On 4/1/13, Claimant requested a hearing to dispute the FAP benefit reduction.

CONCLUSIONS OF LAW

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 present case concerns a FAP benefit reduction. It was not disputed that the reduction was based on a child support sanction against Claimant.

Concerning FAP 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 FAP benefit eligibility, failure to cooperate without good cause results in disqualification of the individual who failed to cooperate. *Id.*, p. 11. The individual and his/her needs are removed from the FAP EDG for a minimum of one month. *Id.* The remaining eligible group members will receive benefits. *Id.*

DHS presented testimony that the child support sanction against Claimant was imposed after DHS learned that Claimant's child's mother changed her address with the Secretary of State to Claimant's address. DHS has numerous problems with the presented basis for sanction.

DHS failed to present any evidence to verify that Claimant's child's mother reported a change in address to the Secretary of State. DHS is known to have access to Secretary of State records, but did not provide any documentation to verify their allegation.

Even if it was accepted that Claimant's spouse reported a change in address to the Secretary of State, this is not definitive proof that Claimant's spouse lives with Claimant. Claimant testified that he separated from his spouse approximately 15 years ago and that he has not lived with his spouse since the separation. It is possible that his spouse changed her address without Claimant's permission. Claimant noted that his wife could have changed her address for purposes of obtaining a reduced rate in auto insurance.

Even if it was accepted that Claimant's wife lived with Claimant, DHS did not establish why the proper result would be a child support sanction. It might have been reasonable

for DHS to make Claimant's spouse a member of Claimant's FAP benefit group if she lived with Claimant; a child support sanction appears to be a capricious penalty.

Based on the presented evidence, DHS failed to establish a basis for imposing a child support sanction against Claimant. Accordingly, the FAP benefit reduction was improper.

DECISION AND ORDER

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

- (1) redetermine Claimant's FAP benefit eligibility, effective 4/2013, subject to the finding that Claimant was compliant with establishing child support; and
- (2) supplement Claimant for any benefits not issued as a result of the improper DHS determination; and
- (3) remove any relevant disqualification from Claimant's disqualification history.

The actions taken by DHS are REVERSED.



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

Date Signed: 5/1/2013

Date Mailed: 5/1/2013

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:

