

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201344750
Issue No.: 3008
Case No.: [REDACTED]
Hearing Date: May 30, 2013
County: Wayne (31)

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 May 30, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Family Independence Manager.

ISSUE

Did the Department properly reduce Claimant's Food Assistance Program (FAP) benefits effective May 1, 2013, 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 April 18, 2013, the Department sent Claimant a Notice of Case Action notifying her that, effective May 1, 2013, she would be removed as a qualified member of her FAP group and her FAP benefits would be reduced.
3. On April 29, 2013, Claimant filed a hearing request, disputing the Department's action.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), the Department of Human Services Bridges Eligibility Manual (BEM), and the Department of Human Services Reference Tables Manual (RFT).

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.

Additionally, in an April 18, 2013 Notice of Case Action, the Department notified Claimant that her FAP group size was reduced to two, resulting in the reduction of her FAP benefits effective May 1, 2013. The Notice explained that Claimant's son, Antonio, had left the FAP group and that Claimant was a disqualified member of the FAP group because she had failed to cooperate with child support requirements. Claimant acknowledged that Antonio was no longer in her group, but she contended that she had complied with child support reporting obligations and should not have been disqualified from her FAP group.

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 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 daughter, [REDACTED]. Claimant credibly testified that she received a letter from the Office of Child Support (OCS) in February 2013, concerning [REDACTED] father and that she completed the letter, providing all of the requested information, and mailed it back to OCS in the provided return addressed envelope. On the record, she provided the name, social security number, and most recent address for [REDACTED] father. Claimant further testified that she did not receive any further notices from OCS and believed that she had complied with her child reporting obligations until she received the Notice of Case Action from the Department informing her that her FAP benefits were to be reduced because of her child support noncompliance. At that time, she contacted the OCS at the number on the Notice and the OCS worker informed her that her February 2013 letter had not been received but another worker would call her back. Claimant credibly testified that she did not receive a return call from OCS. The Department had no evidence to counter Claimant's testimony other than a printout of a screen from its computer showing that Claimant was in noncooperation with OCS with respect to [REDACTED]

as of April 16, 2013. The Department did not have OCS participate in the hearing and did not receive any packet prepared by OCS concerning the documents sent to Claimant and responses received. In the absence of any evidence by the Department to counter Claimant's credible testimony that she had supplied all of the requested information concerning [REDACTED] father, the Department did not act in accordance with Department policy when it removed Claimant as a qualified member of her FAP group and reduced the group's 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 not act in accordance with Department policy when it reduced Claimant's FAP benefits for failure to cooperate with child support reporting obligations.

Accordingly, the Department's decision is REVERSED.

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 Alexx 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 qualified FAP group member, from May 1, 2013, ongoing; and
3. Issue supplements to Claimant for any FAP benefits she was otherwise eligible to receive but did not from May 1, 2013, ongoing.


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

Date Signed: 6/7/2013

Date Mailed: 6/7/2013

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/hw

cc:

