

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

IN THE MATTER OF:

████████████████████
████████████████
██

Reg No.: 2013-49271
Issue No.: 2006, 3008
Case No.: ██████████
Hearing Date: June 24, 2013
Wayne County DHS (76)

ADMINISTRATIVE LAW JUDGE: Colleen M. Mamelka

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the Claimant's request for a hearing. After due notice, a telephone hearing was conducted from Detroit, Michigan on Monday, June 24, 2013. Claimant appeared, along with ██████████, and testified. Participating on behalf of the Department of Human Services ("Department") was ██████████.

ISSUE

Whether the Department properly removed Claimant from the Food Assistance Program ("FAP") group resulting in a reduction in benefits based on a failure to comply with the Office of Child Support?

Whether the Department's termination of Medical Assistance ("MA") and FAP benefits based on the failure to complete the redetermination is proper?

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 MA and FAP recipient.
2. In November 2011, the OCS placed Claimant in non-cooperation status.
3. On April 15, 2013, the Department sent a redetermination packet to Claimant with a due date of May 2, 2013. (Exhibit 1, p. 1; Exhibit 2)

4. On this same date, the Department sent a Redetermination Telephone Interview notice, notifying Claimant of her scheduled telephone interview. (Exhibit 3)
5. Claimant did not submit the redetermination packet. (Exhibit 4)
6. On May 2, 2013, the Department sent a Notice of Missed Interview to Claimant instructing her to reschedule before May 31, 2013. (Exhibit 4)
7. On May 17, 2013, the Department sent a Notice of Case Action to Claimant informing her that her MA benefits were scheduled to close effective June 1, 2013 based on the failure to submit the redetermination packet. (Exhibit 5)
8. On May 23, 2013, the Department received Claimant's timely request for hearing.

CONCLUSIONS OF LAW

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

The Food Assistance Program ("FAP"), 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. The Department, formerly known as the Family Independence Agency, administers FAP pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, Rules 400.3001 through 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. 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.

Parents have a responsibility to meet their children's needs by providing support and/or cooperating with the department including the Office of Child Support ("OCS"), the Friend of the Court, and the prosecuting attorney to establish paternity and/or obtain support from an absent parent. BEM 255 (December 2011), p. 1. Cooperation is a condition of eligibility. BEM 255, p. 7. The head of household and the parent 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, p. 1.

For FAP purposes, the failure to cooperate without good cause results in disqualification of the individual who failed to cooperate for a minimum of one month. BEM 255, p. 11. The remaining eligible group members will continue to receive benefits. BEM 255. Bridges will not restore or reopen benefits for a disqualified member until the client cooperates (as recorded on the child support non-cooperation record) or support/paternity action is no longer needed. BEM 255, p. 12.

In this case, the OCS imposed a sanction on the Claimant's case based on the reported non-cooperation with establishing paternity. As a result of the OCS sanction, the Department notified Claimant that her FAP benefits would be reduced.

The OCS did not participate in the hearing process therefore, it is unclear when the sanction was imposed and the purported reason for it. During the hearing, the Claimant testified credibly regarding the circumstances regarding the child's father. Claimant further testified that she informed the OCS all information she knew regarding the child's father. Ultimately, under these facts, it is found that the Department failed to establish the Claimant was not cooperating with the OCS.

During this same time period, Claimant's case was up review. Clients must cooperate with the local office in determining initial and ongoing eligibility to include the completion of the necessary forms. BAM 105 (November 2012), p. 5. For FAP purposes, benefits stop at the end of the benefit period **unless** a redetermination is completed **and** a new benefit period is certified. BAM 210 (November 2012), p. 2. If the client misses the redetermination interview, a Notice of Missed Interview is sent to the Claimant, informing Claimant to submit the redetermination to avoid the interruption of benefits. BAM 210, p. 3.

In this case, a redetermination was mailed to Claimant. Claimant was in the process of moving and misplaced the packet. After Claimant received the Notice of Missed Interview, Claimant continued to leave messages with her caseworker regarding the foregoing. Claimant was not called back so on May 23rd, Claimant submitted another application and a Request for Hearing. For some unknown reason, the application was not processed, nor did it make it to the current caseworker. Claimant's witness corroborated Claimant's testimony. Ultimately, the evidence demonstrates that Claimant attempted to complete the redetermination but was not provided a second redetermination packet when requested. Ultimately, it is found that the termination of FAP and MA benefits is not upheld.

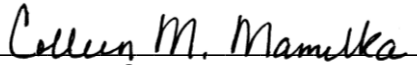
DECISION AND ORDER

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds the Department failed to establish it acted in accordance with department policy when it imposed the OCS sanction and when it terminated Claimant's FAP and MA benefits based on the failure to complete the redetermination.

Accordingly, it is ORDERED:

1. The Department's MA and FAP determinations are REVERSED.
2. The Department shall re-instate Claimant's MA and FAP benefits effective June 1, 2013, in accordance with department policy.

3. The Department shall initiate supplementation of MA and FAP benefits that the Claimant was entitled to receive but did not, if otherwise eligible and qualified and in accordance with Department policy.
4. The Department shall initiate removal of the OCS sanction.
5. The Department shall initiate a redetermination of Claimant's eligibility for MA and FAP benefits in accordance with Department policy.


Colleen M. Mamelka
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: July 2, 2013

Date Mailed: July 2, 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

CMM/tm

cc:

