

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

IN THE MATTER OF:



Reg. No.: 201353571
Issue No.: 1003, 3019
Case No.: [REDACTED]
Hearing Date: July 18, 2013
County: Wayne County (#55)

ADMINISTRATIVE LAW JUDGE: MICHELLE HOWIE

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 conducted on Thursday July 18, 2013 from Detroit, Michigan. The Claimant appeared and testified. Participant on behalf of Department of Human Services (Department) was [REDACTED] Family Independence Specialist).

ISSUE

Whether the Department properly terminated Claimant's cash assistance (FIP) and reduced her Food Assistance Program (FAP) benefits due to non-compliance 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. The Claimant is an ongoing FIP and FAP recipient.
2. Effective May 31, 2013, the Office of Child Support ("OSC") sanctioned Claimant's case for non-cooperation.
3. On July 1, 2013, the Department closed Claimant's FIP benefits and reduced the FAP benefits from \$367 to \$200.
4. On June 4, 2013, the Department sent Notice of Case Action informing Claimant of the intended Department action.

5. On June 12, 2013, the Department received Claimant's hearing request protesting the Department action regarding the FIP and FAP benefits.

CONCLUSIONS OF LAW

The Department of Human Services (DHS) 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 1999 AC, R 400.3101 through Rule 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 1999 AC, R 400.3001 through Rule 400.3015.

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, 1. 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.10.

Any individual required to cooperate with child support that is a member of the FIP eligibility group who fails to cooperate without good cause will cause the entire group to be ineligible and an application to be denied. BEM 255, p. 10. Clients will be required to re-apply if conditions to end the disqualification are not met prior to the negative action date. The conditions that must be met are either the OCS records a date of compliance into the system, support/paternity action is no longer needed, or a one month disqualification has been served. For FAP purposes the failure to cooperate results in member disqualification. BEM 255. 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 or support/paternity action is no longer needed. BEM 255. A disqualified member is returned to the eligible group active for benefits in the month of cooperation. BEM 255.

In this case, Claimant testified that she spoke with the Office of Child Support (OCS) but was unable to establish paternity because she does not have the requested information. Additionally, she failed to return requested forms regarding the non-custodial parent to OCS. OCS imposed a sanction. Subsequent to the sanction, Claimant submitted a good cause claim to the Department on June 19, 2013. The Department representative testified that she forwarded the good cause claim information to OCS but did not have a record of the information. OCS did not appear at hearing. The disqualifications were imposed on Claimant's case as of the effective date.

Policy provides that a client may claim good cause at any time. The Department is to file the good cause claim form in the case within two days of completion and is responsible for determining if good cause exists. BEM 255, p. 4. The Department is to make a good cause determination within 45 days of receiving the claim form. The OCS may review and offer comment on the good cause claim before the Department worker makes the determination. BEM 255, p. 4. Disqualification is not to be imposed while a good cause claim is pending and/or the client request a timely hearing. Here, this was not done. The Department imposed the disqualification despite having a claim of good cause pending and receiving Claimant's timely hearing request. Therefore, the Department did not establish it acted in accordance with policy when it closed Claimant's FIP case and reduced the FAP benefits effective July 1, 2013.

Accordingly, the Department action is NOT UPHOLD.

DECISION AND ORDER

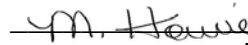
The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department did not establish it acted properly.

Accordingly, the Department's AMP FIP FAP MA SDA CDC determination is hereby, REVERSED.

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

1. The Department shall reinstate Claimant's FIP benefits to the effective date of closure (7/1/2013) and issue a supplement for any loss FIP benefits in accordance with policy.
2. The Department shall restore Claimant's FAP benefits to the allotment amount prior to case action (7/1/2013) and issue a supplement for any loss FAP benefits in accordance with policy.
3. The Department shall initiate processing of Claimant's June 19, 2013, good cause claim to include the request of any verification necessary to make a determination within the department time standard.

4. The Department shall notify Claimant in writing of the good cause determination in accordance with policy.


Michelle Howie
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: 7/26/2013

Date Mailed: 7/26/2013

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

MH/hw

cc:

