

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-54474
Issue Nos.: 1005, 3008
Case No.: [REDACTED]
Hearing Date: August 19, 2013
County: Wayne (82-31)

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 August 19, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED]

ISSUE

Did the Department properly close Claimant's Family Independence Program (FIP) case and reduce her Food Assistance Program (FAP) benefits for noncooperation with child support reporting obligations?

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 recipient of FIP and FAP benefits.
2. On May 14, 2013, the Department sent Claimant a Notice of Case Action informing her that, effective June 1, 2013, her FIP case would close and her FAP benefits would be reduced because she had failed to cooperate in establishing paternity or securing child support.
3. On June 18, 2013, Claimant filed a hearing request, protesting the Department's actions concerning her FIP and FAP cases.

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 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.

Additionally, although Claimant did not identify the programs for which she was requesting a hearing, she indicated in her hearing request that her cases were affected by OCS reporting that she was not cooperating with her child support reporting obligations. At the hearing, Claimant clarified that she was concerned about the reduction of her FAP benefits and the closure of her FIP case. While she also indicated that her son's MA case was closed, the Department responded that a review of the eligibility summary showed no interruption in the son's MA case. Further, a child support sanction would not affect the child's MA coverage. See BEM 255 (December 2011), p. 11. Because Claimant's hearing request referenced the cases affected by the child support noncompliance, the hearing addressed the Department's actions concerning Claimant's FAP and FIP cases, which were affected by the child support noncompliance. Claimant was advised to request a separate hearing concerning her son's MA case if she continued to be concerned about that case.

Department policy requires that the custodial 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 (December 2011), p. 1.

The Department testified that it became aware that Claimant was in noncompliance with her child support reporting obligations on May 10, 2013, and sent her a Notice of Case Action on May 14, 2013, notifying her that, effective June 1, 2013, her FIP case would close and her FAP benefits would be reduced because she failed to cooperate in establishing paternity or security child support.

At the hearing, OCS testified that it sent letters to Claimant on February 24, 2013, and March 12, 2013, requesting that Claimant provide information concerning her son [REDACTED] father. On May 10, 2013, OCS sent Claimant a Noncooperation Notice informing her that her failure to respond to the previous letters in connection with the child support program would affect her Department benefits. OCS alleges that it did not receive any response from Claimant to any of its letters until June 10, 2013, when the OCS worker received an email from the Department worker asking OCS to call Claimant. OCS called Claimant and, based on her interview responses, found her in compliance with her child support reporting obligations as of June 10, 2013.

Cooperation is required in all phases of the process to establish paternity and obtain support and includes contacting the support specialist when requested, providing all known information about the absent parent, and taking any actions needed to establish paternity and obtain child support. BEM 255, p. 8. In this case, OCS testified at the hearing that Claimant complied with her child support reporting obligations during the June 10, 2013, phone interview by (1) contacting OCS, (2) establishing the child's paternity, and (3) establishing the father's whereabouts.

At the hearing, Claimant testified that she received only the May 10, 2013, Noncooperation Letter from OCS and credibly testified that she contacted her OCS worker by phone on several occasions and left messages but no one from OCS responded to her calls until she contacted her Department worker and the Department worker emailed the OCS worker and asked her to call Claimant. The Department worker verified that Claimant had notified her that she was unable to contact her OCS worker and asked for her assistance. Claimant's OCS worker was not present at the hearing and was unable to dispute Claimant's testimony that she had attempted to contact her prior to June 1, 2013. Thus, Claimant established that she had attempted to timely contact OCS.

Further, the evidence in this case showed that OCS had access to the information Claimant provided during the interview. The father had completed an affidavit of parentage and was identified as the father on the birth certificate. Claimant testified that she had previously provided this information to the Department, and OCS acknowledged that it had access to these documents. In fact, OCS testified that the father was identified on the OCS documents sent to Claimant. Although OCS testified that Claimant needed to verify the father's whereabouts, Claimant credibly testified that her OCS worker asked her if the father continued to be incarcerated, which would indicate that OCS knew at one point that the father had been imprisoned. OCS had the means to verify the father's imprisonment without contacting Claimant.

Because Claimant attempted to timely comply with her child support reporting obligations by contacting OCS prior to the June 1, 2013, case actions closing her FIP case and reducing her FAP benefits, and the information she provided was previously provided and could be verified without contact with Claimant, the Department did not act in accordance with Department policy when it closed Claimant's FIP case and reduced

her FAP benefits effective June 1, 2013, based on noncompliance with child support reporting obligations.


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 closed Claimant's FIP case and reduced her FAP benefits.

Accordingly, the Department's FIP and FAP decisions are REVERSED.

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

1. Reinstate Claimant's FIP case as of June 1, 2013;
2. Recalculate Claimant's FAP budget for June 1, 2013, ongoing in accordance with Department policy and to include Claimant as a qualified FAP group member; and
3. Issue supplements to Claimant for FIP and/or FAP benefits she was eligible to receive but did not from June 1, 2013, ongoing.


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

Date Signed: August 22, 2013

Date Mailed: August 22, 2013

NOTICE OF APPEAL: 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 or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

A Request for Rehearing or Reconsideration may be granted when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;

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- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The Department, AHR or the claimant must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date the hearing decision is mailed.

The written request must be faxed to (517) 335-6088 and be labeled as follows:

Attention: MAHS Rehearing/Reconsideration Request

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-07322

ACE/pf

cc:

