

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-58258
Issue Nos.: 3008, 5008
Case No.: [REDACTED]
Hearing Date: August 15, 2013
County: Wayne (82-17)

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 15, 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 reduce Claimant's Food Assistance Program (FAP) benefits and deny her State Emergency Relief (SER) application due to her 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 FAP recipient.
2. On May 28, 2013 the Department sent Claimant a Notice of Case Action notifying her that, effective July 1, 2013, she would be removed as a qualified member of her FAP group and her FAP benefits would be reduced due to her failure to cooperate in establishing paternity or securing child support.
3. On June 11, 2013, Claimant applied for SER assistance with housing.

4. On June 20, 2013, the Department denied the application because of her failure to cooperate with her child support reporting obligations.
5. On July 10, 2013, Claimant filed a hearing request, disputing the Department's actions.

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), the Department of Human Services Reference Tables Manual (RFT), and the Department of Human Services State Emergency Relief Manual (ERM).

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.

The State Emergency Relief (SER) program is established by 2004 PA 344. The SER program is administered pursuant to MCL 400.10, *et seq.*, and by Mich Admin Code, R 400.7001 through R 400.7049.

Additionally, although the Department did not provide any of the relevant Notices of Case Action in this case, it testified it sent Claimant a May 28, 2013, Notice of Case Action removing her from her FAP case and reducing her FAP benefits because she was in noncooperation with her child support reporting obligations. The Department also testified that it sent Claimant a June 20, 2013, Notice of Case Action denying her June 11, 2013, SER application because of her child support noncooperation.

A client's cooperation with paternity and obtaining child support is a condition of FAP and SER eligibility. BEM 255 (December 1, 2011), p. 1; ERM 203 (April 2011), pp. 1-2. 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, p. 1. If an individual required to cooperate with child support reporting obligations fails to do so without good cause, the adult member who failed to cooperate is disqualified from the FAP group until the later of one month or when the individual cooperates. BEM 255, pp. 9-11. A client is not eligible for SER until compliance is established. ERM 203, p. 2.

In this case, Claimant is the legal guardian of the child at issue. Claimant acknowledged receiving letters from the Office of Child Support (OCS) on February 25, 2013, April 26, 2013, and May 26, 2013, concerning the child's biological mother (Claimant's aunt) and the unknown father, and credibly testified that she called the child

support specialist identified on the letters and left messages with the information she had concerning both parents after receiving each letter. Claimant credibly testified that she did not receive any return calls from the OCS.

The Department responded that its system showed a compliance date of July 10, 2013, that was entered by OCS on its system on July 18, 2013. OCS did not participate in the hearing (although the Department testified that it attempted to contact OCS), and no OCS packet was included with the hearing packet. Thus, the Department failed to present any evidence to dispute Claimant's credible testimony.

Under the facts in this case, where Claimant credibly testified that she complied with her child support reporting obligations prior to receiving the May 24, 2013, noncompliance letter from OCS, the Department did not act in accordance with Department policy when it reduced Claimant's FAP benefits and denied her SER application.

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 her FAP benefits and denied her SER application 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 entered on or about May 24, 2013, 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 FAP group member from July 1, 2013, ongoing;
3. Issue supplements to Claimant for any FAP benefits she was otherwise eligible to receive but did not from July 1, 2013, ongoing;
4. Reregister Claimant's June 11, 2013, SER application;
5. Begin reprocessing the SER application in accordance with Department policy;

6. Provide Claimant with any SER benefits she is eligible to receive in accordance with Department policy.



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

Date Signed: August 20, 2013

Date Mailed: August 20, 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;
- 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

2013-58258/ACE

ACE/pf

cc:

