

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201368802
Issue No.: 1025, 3008
Case No.: [REDACTED]
Hearing Date: October 17, 2013
County: Macomb (20)

ADMINISTRATIVE LAW JUDGE: C. Adam Purnell

HEARING DECISION

Following Claimant's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, a telephone hearing was held on October 17, 2013, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] (Claimant). Participants on behalf of the Department of Human Services (Department) included [REDACTED] (JET Case Manager) and [REDACTED] (Lead Worker-Office of Child Support (OCS)).

ISSUE

Did the Department properly sanction Claimant's Food Assistance Program (FAP) and Family Independence Program (FIP) cases due to Claimant's failure to cooperate with child support 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 active for FIP and FAP.
2. On July 26, 2013, the Department's OCS mailed Claimant a First Customer Contact Letter seeking information about the noncustodial parent of her minor child ([REDACTED]). Claimant did not respond to this letter.
3. On August 13, 2013, the Department's OCS mailed a second letter requesting Claimant contact OCS. Again, Claimant did not respond.

4. On August 21, 2013, the Department's OCS mailed a third and final letter requesting Claimant contact the OCS, but Claimant failed to respond.
5. On August 31, 2013, the Department mailed Claimant a Notice of Case Action (DHS-1605) which, effective October 1, 2013, closed her FIP case and reduced her FAP case due to failure to cooperate in establishing paternity or securing child support.
6. Claimant requested a hearing to challenge the FIP closure and the FAP reduction on September 11, 2013.

CONCLUSIONS OF LAW

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

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10 and 400.57a and Mich Admin Code, R 400.3101 to .3131.

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food Stamp Act of 1977, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 271.1 to 285.5. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10 and Mich Admin Code, R 400.3001 to .3015.

Department policy indicates that clients can pursue any potential benefits for which they may be eligible. BEM 270. One of these benefits is child support. BEM 255. The Department takes the position that families are strengthened when children's needs are met. BEM 255. The Department also believes that 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 (FOC) and the prosecuting attorney to establish paternity and/or obtain support from an absent parent. BEM 255.

When OCS, FOC or a prosecuting attorney determines a client is in cooperation or noncooperation the determination is entered in the Department's computer system known as "Bridges" via a systems interface. BEM 255. When the client is in noncooperation, Bridges will generate a notice closing the affected program(s) or reduce the client benefit amount in response to the determination. BEM 255.

Department policy states that 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. Failure to cooperate without good cause results in disqualification. BEM 255. Disqualification includes member removal, as well as denial or closure of program benefits, depending on the type of assistance. BEM 255.

Good cause will be granted only when requiring cooperation/support action is against the child's best interests and there is a specific good cause reason. BEM 255. Policy sets forth two types of good cause (1) cases in which establishing paternity/securing support would harm the child and (2) cases in which there is danger of physical or emotional harm to the child or client. BEM 255.

Generally speaking, the department will request the client provide evidence of good cause within 20 calendar days of the claim. BEM 255. The department should allow an extension of up to 25 calendar days if the client has difficulty in obtaining the evidence. BEM 255. Department workers should assist clients in obtaining written evidence if needed and place any evidence in the case record. BEM 255. If written evidence does not exist, the department employee must document why none is available and determine if the claim is credible. BEM 255. **Credibility determinations are based on available information including client statement and/or collateral contacts¹ with individuals who have direct knowledge of the client's situation. BEM 255.**

Cooperation is required in all phases of the process to establish paternity and obtain support which includes **all** of the following: (1) contacting the support specialist when requested; (2) providing all known information about the absent parent; (3) appearing at the office of the prosecuting attorney when requested; (4) taking any actions needed to establish paternity and obtain child support (including but not limited to testifying at hearings or obtaining blood tests). BEM 255.

The department, through its Bridges computer system, applies the support disqualification when a begin date of noncooperation is entered and there is no pending or approved good cause. BEM 255. Failure to cooperate without good cause results in disqualification of the individual who failed to cooperate. BEM 255. The individual and their needs are removed from the CDC EDG for a minimum of one month. BEM 255.

The department's computer system (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. Bridges will end the non-cooperation record if any of the following exist:

¹ A "collateral contact" is defined as contact with an information source (other than the client) through written correspondence, a telephone interview or an in-person interview. See Bridges Program Glossary (BPG) at page 9.

- OCS records the comply date.
- Support/paternity action is no longer a factor in the client's eligibility (for example child leaves the group).
- For FIP only, the client cooperates with the requirement to return assigned support payments, or an over issuance is established and the support is certified.
- For FIP and FAP only, a one month disqualification is served when conditions (mentioned above) to end the disqualification are not met prior to the negative action effective date. BEM 255.

Here, the Department contends that Claimant failed to respond to three letters from the OCS requesting information about the non-custodial parents of her two children. The letters requested that Claimant call her OCS specialist. The Department argues that after Claimant failed to respond to each of the three letters before the deadline, the Department sanctioned her FAP and FIP cases. Claimant admitted that she did not respond to the letters in a timely manner because she experienced post-partum difficulties. However, Claimant stated that she believes she may have called her OCS caseworker at some point with information about the father of one of the children. During the hearing, Claimant offered vague testimony where she recalls that she left a message with the OCS caseworker but only after receiving the notice of case action.

Testimony and other evidence must be weighed and considered according to its reasonableness. *Gardiner v Courtright*, 165 Mich 54, 62; 130 NW 322 (1911); *Dep't of Community Health v Risch*, 274 Mich App 365, 372; 733 NW2d 403 (2007). The weight and credibility of this evidence is generally for the fact-finder to determine. *Dep't of Community Health*, 274 Mich App at 372; *People v Terry*, 224 Mich App 447, 452; 569 NW2d 641 (1997). Moreover, it is for the fact-finder to gauge the demeanor and veracity of the witnesses who appear before him, as best he is able. See, e.g., *Caldwell v Fox*, 394 Mich 401, 407; 231 NW2d 46 (1975); *Zeeland Farm Services, Inc v JBL Enterprises, Inc*, 219 Mich App 190, 195; 555 NW2d 733 (1996).

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department acted in accordance with Department policy when it closed Claimant's FIP case and reduced Claimant's FAP benefits. There is no dispute, and Claimant did not challenge the Department's argument that she failed to contact the OCS when required to do so. Claimant's explanations for her failure to do so do not constitute good cause. In addition, Claimant's ambiguous testimony about when she called OCS and what she said to OCS on the telephone was not credible. Based on the substantial, material and competent evidence on the whole record, this Administrative Law Judge finds that Claimant was noncompliant with OCS with regard to both children and was properly found to be noncompliant.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.

IT IS SO ORDERED.

/s/ _____
C. Adam Purnell
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: October 23, 2013

Date Mailed: October 23, 2013

NOTICE OF APPEAL: 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.

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).

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

201368802/CAP

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

CAP/aca

cc:

