

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

IN THE MATTER OF:

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

Reg. No.: 2013-69595
Issue No.: 3008
Case No.: ██████████
Hearing Date: October 21, 2013
County: Wayne (31)

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

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 21, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████, Eligibility Specialist and ██████████, Eligibility Specialist.

ISSUE

Did the Department properly reduce Claimant's Food Assistance Program (FAP) benefits based on a failure to cooperate with child support requirements?

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's was an ongoing recipient of FAP benefits.
2. On September 9, 2013, the Department sent Claimant a Notice of Case Action informing him that effective October 1, 2013, his FAP benefits and FAP group size would be decreased based on a failure to cooperate with child support requirements. (Exhibit 1)
3. On September 18, 2013, Claimant submitted 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), 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 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.

Additionally, the custodial parents 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 he receives assistance, unless a claim of good cause for not cooperating has been granted or is pending. BEM 255 (October 2013), pp. 1.

A client's cooperation with paternity and obtaining child support is a condition of FAP eligibility. BEM 255, pp. 1, 9-11. Cooperation is required in all phases of the process to establish paternity and obtain support and includes providing all known information about the absent parent. BEM 255, p. 9. Any individual required to cooperate who fails to cooperate without good cause may result in group ineligibility or member disqualification for FAP benefits. BEM 255, pp. 9-11.

In this case, the Department testified that its system showed that Claimant was subject to a child support noncompliance as of September 15, 2013. However, the Department could not provide any details concerning the nature of the noncompliance. Claimant testified that he had complied with all requests for information concerning his children's mother and had provided all of the information available to him on the FAP application he submitted in April 2013. Claimant further testified that after receiving a letter from the Office of Child Support (OCS) placing him in noncooperation and requesting additional information on the absent mother, he called the OCS specialist several times and left messages but was unable to reach anyone. Claimant stated that he provided the Department with the full name and birthdate of the absent mother and credibly stated that he did not have any of other identifying information such as address and social security number, requested by OCS.

The Department testified that OCS had been advised of Claimant's hearing request and attempts were made to reach an OCS specialist for participation in the hearing, with no success.

In light of the lack of any evidence by the Department or OCS to rebut Claimant's testimony that he had complied with his child support reporting obligations, the Department failed to satisfy its burden of showing that it acted in accordance with

Department policy in excluding Claimant from his FAP group and decreasing his FAP benefits for failure to comply with child support obligations.

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 did not act in accordance with Department policy when it removed Claimant as a FAP group member and reduced his FAP benefits effective October 1, 2013.

DECISION AND ORDER

Accordingly, the Department's decision is REVERSED.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Remove the child support sanction that was imposed on Claimant's case;
2. Recalculate Claimant's FAP budget from October 1, 2013, ongoing including Claimant as a qualified group member;
3. Issue supplements to Claimant for FAP benefits that he was eligible to receive but did not from October 1, 2013, ongoing; and
4. Notify Claimant in writing of the Department's decision.



Zainab Baydoun
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

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

ZB/tm

cc: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]