

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

IN THE MATTER OF:

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████████████████████

Reg. No.: 2013-69623
Issue No.: 2006;3008;3015
Case No.: ██████████
Hearing Date: October 21, 2013
County: Oakland (04)

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 ██████████, Assistance Payment Worker.

ISSUE

Did the Department properly deny Claimant's Medical Assistance (MA) applicaiton and close Claimant's Food Assistance Program (FAP) case?

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 children were ongoing recipients of FAP benefits.
2. On August 26, 2013, Claimant submitted an application for MA benefits and for FAP benefits for herself.
3. Claimant reported to the Department that her boyfriend who is also the father of one of her children was living in the home and earning income.
4. On August 27, 2013, the Department sent Claimant a Notice of Case Action informing her that her MA application had been denied on the basis that she had failed to comply with child support requirements. (Exhibit A, pp. 1-4)

5. On September 3, 2013, the Department sent Claimant a Notice of Case Action informing her that effective October 1, 2013, FAP benefits for her children would be terminated on the basis that the group's gross income exceeded the limit and on the basis that she had failed to comply with child support requirements. (Exhibit 1, pp. 14-19)
6. On September 16, 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.

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act, 42 USC 1396-1396w-5, and is implemented by 42 CFR 400.200 to 1008.59. The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10 and MCL 400.105.

Non-Cooperation with Child Support

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 she receives assistance, unless a claim of good cause for not cooperating has been granted or is pending. BEM 255 (July 2013), pp. 1. A client's cooperation with paternity and obtaining child support is a condition of FAP and MA 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 8. Any individual required to cooperate who fails to cooperate without good cause may result in group ineligibility or member disqualification for FAP and MA. BEM 255, pp. 9-11.

Good cause is granted in cases where requiring cooperation or a support action is against the child's best interest and there is a specific good cause reason. In cases in which establishing paternity or securing support would harm the child, the Department is

not to require cooperation if the child was conceived due to incest or forcible rape, provided the criteria additional for the good cause claim is met. BEM 255, pp. 3-5.

In this case, Claimant submitted an application for MA benefits which the Department testified was denied on the basis that Claimant failed to comply with child support requirements. (Exhibit A, pp.1-4). The Department stated that FAP benefits for Claimant's children were also terminated based on the non-cooperation with child support.

At the hearing, Claimant testified that she made a claim of good cause on the basis that her son was conceived due to an act of force. Claimant stated that the Department denied her claim her claim and placed her in noncooperation with child support. After being informed that her good cause claim was denied, Claimant stated that she made several attempts to contact the Office of Child Support (OCS) at the phone number she was provided with and left messages. Claimant stated that she was not able to reach anyone from the OCS. Claimant also testified that she provided the OCS with the first name of the father of the child and a physical description. Claimant credibly stated that because the child was conceived due to an act of force, she had no other identifying information to provide the Department with.

A representative from the OCS was not present for the hearing and the Department did not present any evidence regarding the child support sanction or what date it was imposed on Claimant's case. Further, the Department failed to establish that Claimant did not disclose all known information concerning the father and that she had additional information regarding the father's identity.

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 denying Claimant's MA application for failure to comply with child support obligations.

Based on the discussion above, the Department also failed to satisfy its burden in establishing that Claimant was noncompliant with her child support reporting obligations for her FAP case and should not have been denied FAP benefits on that basis.

FAP Closure based on excess gross income

Additionally, Claimant submitted an application for FAP benefits for herself, as previously, only her children were receiving FAP benefits. Claimant informed the Department that her boyfriend, who is also the father of one of her children, was living in the home and earning income. On September 3, 2013, the Department sent Claimant a Notice of Case Action informing her that effective October 1, 2013, FAP benefits for her children would be terminated on the basis that the group's gross income exceeded the limit. (Exhibit 1, pp. 14-19).

FAP groups who do not have a senior/disabled/veteran (SDV) member, must have gross monthly income below the applicable gross income limit. BEM 550 (July 2013), p.1. Gross income is the amount of income before any deductions such as taxes or garnishments. This may be more than the individual actually receives. Gross income includes amounts withheld from income which are any of the following: voluntary, to repay a debt or to meet a legal obligation. Some examples of amounts which may be withheld, but are still considered part of gross income are: income taxes, health or life insurance premiums, medicare premiums, union dues, loan payments, garnishments, and court-ordered or voluntary child support payments. BEM 500 (July 2013), pp.4-5.

The September 3, 2013, Notice of Case Action indicated that the Department calculated Claimant's monthly income to be \$4, 400.00, which was in excess of the monthly income limit of \$2,498.00. (Exhibit 1, p.15). The Department testified that in calculating the group's income for FAP purposes, it considered the reported earnings of Claimant's boyfriend including (i) \$2,027.95 received on August 16, 2013 and (ii) \$2,027.96 received on August 29, 2013. Although Claimant confirmed that the amounts used by the Department were accurate, after further review of the evidence, the pay stubs relied on by the Department do not amount to a total monthly income of \$4, 400.00 as determined by the Department. BEM 505 (July 2013).

Additionally, the Department stated that the income limit applied in determining that Claimant was ineligible for FAP due to excess income was based on a group size of four and that Claimant was not included, as she was disqualified on the basis of noncooperation with child support.

As discussed above, because the Department did not establish that Claimant was in noncooperation with child support requirements, Claimant should have been included as a FAP group member and her group size increased to five people. Therefore, the Department did not act in accordance with Department policy when it calculated Claimant's income and determined that Claimant's group was ineligible based on excess gross income, as an incorrect group size was applied.

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 denied Claimant's MA application and closed Claimant's FAP case based on a failure to cooperate with child support and based on gross excess income.

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 sanctions that were imposed on Claimant's MA and FAP case;
2. Register and process Claimant's MA and FAP application to determine her eligibility for benefits;
3. Reinstate Claimant's FAP case effective October 1, 2013 and recalculate the FAP budget for October 1, 2013, ongoing including Claimant as a qualified group member, if otherwise eligible;
4. Issue supplements to Claimant for any MA and FAP benefits that she was entitled to receive but did not from the date of application, ongoing; and
5. 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.

2013-69623/ZB

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]
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