

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

IN THE MATTER OF:



Reg. No.: 201417231
Issue No.: 3011
Case No.: [REDACTED]
Hearing Date: January 16, 2014
County: Kent

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 January 16, 2014 from Lansing, Michigan. Claimant personally appeared and provided testimony. Participants on behalf of the Department of Human Services (Department) included [REDACTED] [REDACTED] (Assistance Payments Worker), [REDACTED] (Assistance Payments Supervisor) and [REDACTED] (Lead Specialist from the Office of Child Support (OCS)).

ISSUE

Did the Department properly sanction Claimant's Food Assistance Program (FAP) benefits because Claimant failed to cooperate with the Office of Child Support (OCS) to establish paternity and/or obtain support from an absent parent?

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 FAP.
2. On October 25, 2013, the OCS mailed Claimant a First Customer Contact Letter requesting that Claimant contact her child support specialist by November 4, 2013 to provide information about the non-custodial parent of her minor child ([REDACTED]).
3. On November 12, 2013, the OCS mailed Claimant a Final Customer Contact Letter again requesting that Claimant contact her child support specialist and provide information about the non-custodial parent of her minor child. The letter indicated

that Claimant's failure to provide this information by November 21, 2013 may result in a noncooperative finding and a reduction or loss of benefits.

4. On November 29, 2013, the OCS mailed Claimant a Noncooperation Notice which indicated that because she failed to cooperate with the child support program her benefits will be reduced or closed.
5. On November 30, 2013, the Department mailed Claimant a Notice of Case Action (DHS-1605) which decreased Claimant's monthly FAP benefits, effective January 1, 2014, due to her failure to cooperate with child support requirements.
6. On December 5, 2013, Claimant requested a hearing to dispute the Department's action.

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.

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, p 1 (1-1-2014). Absent parents are required to support their children. Support includes **all** of the following: (1) child support; (2) medical support; and payment for medical care from any third party. BEM 255, p 1 (1-1-2014).

For FAP, 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 (1-1-2014).

For FAP, cooperation is a condition of eligibility. BEM 255, p 9 (1-1-2014). The following individuals who receive assistance on behalf of a child are required to cooperate in establishing paternity and obtaining support, unless good cause has been granted or is pending: (1) grantee (head of household) and spouse; (2) specified relative/individual acting as a parent and spouse; and (3) parent of the child for whom paternity and/or support action is required. BEM 255, p 9 (1-1-2014).

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, p 9 (1-1-2014).

Failure to cooperate without good cause results in disqualification. Disqualification includes member removal, as well as denial or closure of program benefits, depending on the type of assistance. BEM 255, p 2 (1-1-2014).

Here, the Department contends that Claimant was, and continues to be, noncooperative with the OCS concerning the absent father. The OCS representative testified that Claimant failed to respond to two contact letters asking her to provide information on the absent father and that Claimant was uncooperative during a telephone interview on December 11, 2013. According to the Department, Claimant, during the telephone interview, told the Department that it was none of their business and then hung up. The Department further asserts that Claimant has provided only the name of the absent father but refuses to provide any other information including: his date of birth, last-known address or employer. Claimant, on the other hand, disagreed with the characterization that she was uncooperative during the December 11, 2013 telephone interview. Claimant testified that it is not her responsibility to provide any additional information regarding the absent father because he is a supportive father and periodically assists with the care of their minor child. Claimant denies that the absent father lives with her and she states that she does not know where he works. Claimant also denies that she has an address or a telephone number for the absent father.

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).

This Administrative Law Judge has carefully considered and weighed the testimony and other evidence in the record. Claimant's testimony that she does not know the absent father's phone number, address and/or employer is not credible. Claimant's testimony is inconsistent. At one point Claimant stated that it was the responsibility of the OCS to obtain this information and that it was not her duty to provide this information. But then Claimant says that she does not know the information. BEM 255 clearly provides 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. Based on this record, Claimant

clearly has additional information about the absent father but refuses to assist because she believes that the absent father voluntarily assists her and does not deserve to be forced to pay support. This does not constitute sufficient good cause for failing to cooperate. Policy requires Claimant to provide this information and allows the Department to sanction her benefits until she brings herself into compliance.

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 determined that Claimant was noncooperative with OCS and reduced her monthly FAP assistance benefits.

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: January 17, 2014

Date Mailed: January 21, 2014

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.

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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

CAP/aca

cc:

