

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

IN THE MATTER OF:

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

Reg. No.: 2014 15032
Issue No.: 3011
Case No.: ██████████
Hearing Date: February 18, 2014
County: Wayne (17)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 February 18, 2014, from Detroit, Michigan. Participants on behalf of Claimant included the Claimant. Participants on behalf of Department of Human Services (Department) included ██████████, ES. ██████████, Lead Support Specialist, also appeared on behalf of the Office of Child Support.

ISSUE

Did the Department properly remove the Claimant from her Food Assistance (FAP) group due to non-cooperation with the Office of Child Support?

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 received benefits for:

- | | |
|--|---|
| <input type="checkbox"/> Family Independence Program (FIP). | <input type="checkbox"/> Adult Medical Assistance (AMP). |
| <input checked="" type="checkbox"/> Food Assistance Program (FAP). | <input type="checkbox"/> State Disability Assistance (SDA). |
| <input type="checkbox"/> Medical Assistance (MA). | <input type="checkbox"/> Child Development and Care (CDC). |

On October 29, 2013, the Department removed the Claimant from her Food Assistance Group due to non-cooperation with the Office of Child Support.

2. On October 31, 2013, the Department sent the Claimant a Notice of Case Action removing her from her FAP group due to non-cooperation with Child Support regarding the identification of the father of Claimant's child, [REDACTED].
3. On October 31, 2013, Claimant filed a hearing request, protesting her removal from her FAP group due to non-cooperation.

CONCLUSIONS OF LAW

Department policies are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Reference Tables Manual (RFT).

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 Claimant's case was closed due a Notice of Non-Cooperation. The Office of Child Support found the Claimant in non-cooperation with regards to one of her children [REDACTED], as of October 31, 2013. After the Claimant received the notice from the Department issued on October 31, 2013 removing the Claimant from her FAP group effective December 1, 2013, the Claimant did contact the Office of Child Support.

The Claimant's testimony at the hearing was consistent with the information provided to the OCS and in her written hearing request. Exhibit 2. The facts are embarrassing and straightforward. The Claimant went out to celebrate her birthday, drank too much, had a threesome with two men and became pregnant. The Claimant only recalled the name of one of the men and did not exchange phone numbers, as she was embarrassed about what she had done. The Claimant believed the two men were using birth control protection but she nonetheless became pregnant. The lack of responsibility as demonstrated by the Claimant behaving recklessly, as she is already a mother with 4 children, goes without saying; however, the fact remains she provided all the information that she has about the event and testified that she was not having sexual relations with anyone else during the period. Based upon the evidence presented it is determined that the Claimant's testimony was credible and no other information is available. Unfortunately for her child, the Claimant cannot identify the father as she has no information other than a first name of one of the men. The Department and OCS did not identify any information that they believe the Claimant was withholding, lying about or otherwise failed to disclose and thus did not establish that she failed to cooperate.

BEM 255 provides:

Cooperation is required in all phases of the process to establish paternity and obtain support. It includes **all** of the following:

- Contacting the support specialist when requested.
- Providing all known information about the absent parent. BEM 255 pp.9, (1/1/14).

Based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, the Administrative Law Judge concludes that the Department

properly denied Claimant's application improperly denied Claimant's application
 properly closed Claimant's case improperly removed the Claimant from her FAP group due to non cooperation.

for: AMP FIP FAP MA SDA CDC.

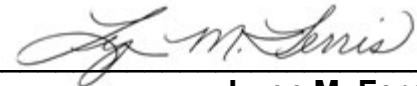
DECISION AND ORDER

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. The Department shall place the Claimant in cooperation as of December 1, 2013, the date she was removed from her FAP group and shall remove the non-cooperation designation and restore the Claimant to her FAP group as of December 1, 2013.
2. The Department shall issue a FAP supplement for FAP benefits, if any, the Claimant was otherwise entitled to receive in accordance with Department policy.



Lynn M. Ferris
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: February 26, 2014

Date Mailed: February 26, 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.

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

LMF/cl

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