

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-19331
Issue No.: 3011, 6011
Case No.: [REDACTED]
Hearing Date: January 29, 2014
County: Wayne (43)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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, an in-person hearing was held on January 29, 2014, from Detroit, Michigan. Participants included the above-named Claimant, [REDACTED], [REDACTED], [REDACTED], [REDACTED] appeared as Claimant's authorized hearing representative. Participants on behalf of the Department of Human Services (DHS) included [REDACTED], Specialist, and [REDACTED] Office of Child Support Lead Specialist.

ISSUES

The first issue is whether Claimant timely requested a hearing to dispute Food Assistance Program (FAP) eligibility back to 3/2013.

The second issue is whether DHS properly imposed a child support disqualification as part of a FAP benefit determination.

The third issue is whether DHS properly denied Claimant's Child Development and Care application based on a child support disqualification.

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 an ongoing FAP benefit recipient.

2. Claimant was a member of a household that included three minor children.
3. On an unspecified date prior to 7/2013, DHS imposed a child support disqualification against Claimant.
4. On an unspecified date prior to 7/2013, DHS determined Claimant's FAP eligibility based on a group size of three persons resulting in a FAP benefit issuance of \$526 beginning in a benefit month no later than 7/2013.
5. On 10/13, DHS mailed a Notice of Case Action (Exhibits 2-3) determining Claimant's FAP eligibility, effective 11/2013, to be \$497 (see Exhibits 2-3).
6. On 10/13, Claimant applied for CDC benefits.
7. On 11/13, DHS mailed a Notice of Case Action (Exhibits 4-5) informing Claimant of a CDC application denial due to a child support disqualification.
8. On 12/13, Claimant requested a hearing to dispute her FAP eligibility from 3/2013 and the denial of her CDC application.

CONCLUSIONS OF LAW

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

Claimant requested a hearing, in part, to dispute her FAP eligibility from 3/2013. It must be determined whether Claimant timely requested a hearing to dispute FAP eligibility from 3/2013.

The client or authorized hearing representative has 90 calendar days from the date of the written notice of case action to request a hearing. BAM 600 (7/2013), p. 5. DHS notes one exception to the 90 day time limit. For FAP only, the client or authorized hearing representative may request a hearing disputing the current level of benefits at any time within the benefit period. *Id.*

Consideration was given as to whether Claimant could dispute her FAP eligibility as far back that her ongoing FAP eligibility remained unchanged. Though DHS hearing policy makes an exception for FAP benefits disputes, the exception allows a client to request a hearing despite an absence of a written notice from the prior 90 days. The exception does not allow a client to dispute a case action older than 90 days when DHS issues

proper written notice. It is found that Claimant is restricted to disputing her FAP eligibility to no more than 90 days prior to a hearing request. Thus, Claimant is limited to disputing her FAP eligibility from 9/2013, the benefit month incorporating the 90th day before Claimant's hearing request submission.

FAP benefit determinations factor the following: income, standard deduction, mortgage expenses utility credit, medical expenses, child support expenses, day care expenses, group size and senior/disability/disabled veteran status. During the hearing, a budget summary (Exhibit 3) was discussed. The only FAP budget factor in dispute was group composition.

It was not disputed that DHS imposed a child support disqualification against Claimant. Claimant's removal as a FAP benefit group member was the result of the child support disqualification.

Concerning FAP and CDC benefit eligibility, 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 (10/2013), p. 1. Failure to cooperate without good cause results in disqualification. *Id.*, p. 2. Disqualification includes member removal, as well as denial or closure of program benefits, depending on the type of assistance. *Id.* The support specialist (i.e. OCS) determines cooperation for required support actions. *Id.*, p. 10.

For FAP benefit eligibility, failure to cooperate without good cause results in disqualification of the individual who failed to cooperate. *Id.*, p. 14. The individual and his/her needs are removed from the FAP EDG for a minimum of one month. *Id.* The remaining eligible group members will receive benefits. *Id.*

It was not established when DHS determined Claimant to be uncooperative with establishing paternity for one or more of Claimant's children. It was established that the disqualification began prior to 7/2013 (see Exhibit 1).

Claimant contended that she was consistently complaint with her child support obligations. Claimant testified that she made multiple calls to OCS in an attempt to comply with her child support requirements. The testifying OCS representative stated that she spoke with Claimant prior to the hearing. After talking with Claimant, OCS determined Claimant to be cooperative with child support beginning the benefit month of 9/2013. The OCS concession makes Claimant an eligible FAP group member beginning 9/2013 which renders the previous FAP benefit determinations to be improper.

The Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, 42 USC 601-619, 670-679c, and 1397-1397m-5; the Child Care and Development Block Grant of 1990, PL 101-508, 42 USC 9858 to 9858q; and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193. The program is implemented by 45 CFR 98.1-99.33. The Department administers

the program pursuant to MCL 400.10 and provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001-.5020. Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM) and Department of Human Services Bridges Eligibility Manual (BEM) and Department of Human Services Reference Tables Manual (RFT).

Claimant also requested a hearing to dispute a denial of CDC benefits. It was not disputed that DHS denied Claimant's CDC application because of the same child support disqualification discussed in the above analysis. Failure to cooperate without good cause results in ineligibility for CDC. *Id.*, p. 13.

As in the above analysis, the OCS concession that Claimant was cooperative with obtaining child support beginning 9/2013 renders subsequent DHS decisions factoring a child support disqualification to be improper. Accordingly, DHS improperly denied Claimant's CDC application dated 10/█/13.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly determined Claimant's FAP eligibility and improperly denied Claimant's CDC application. It is ordered that DHS perform the following actions:

- (1) redetermine Claimant's FAP eligibility, effective 9/2013, subject to the finding that Claimant was cooperative in obtaining child support;
- (2) reinstate Claimant's CDC application dated 10/█/13, subject to the finding that Claimant was cooperative in obtaining child support; and
- (3) initiate a supplement of any benefits improperly not issued.

The actions taken by DHS are **REVERSED**.



Christian Gardocki
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 2/7/2014

Date Mailed: 2/7/2014

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

CG/hw

cc:

