

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

IN THE MATTER OF:



Reg. No.: 2014-29138
Issue No(s): 1011; 3011; 6011
Case No.: [REDACTED]
Hearing Date: March 20, 2014
County: Isabella

ADMINISTRATIVE LAW JUDGE: Michael S. Newell

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 March 20, 2014, from Lansing, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED] ES, [REDACTED] AP Supervisor and [REDACTED] and Office of Child Support (OCS), Lead Worker.

ISSUE

Did the Department properly remove Claimant from the FAP group and deny CDC and FIP for alleged noncompliance with OCS?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. OCS sent Claimant letters on January 12, 2013 and September 22, 2013 advising her to call [REDACTED] of OCS (Exhibit 3).
2. Claimant called OCS on April 11, 2013 and October 9, 2013 and left voicemail messages for [REDACTED] at the numbers provided on the letters that OCS sent her.
3. [REDACTED] did not testify and OCS did not have a policy at those times to log voicemail messages.
4. On October 17, 2013, OCS sent Claimant a Noncooperation Notice. (Exhibit 3).
5. On November 18, 2013, Claimant called OCS and spoke with [REDACTED], Support Specialist.

6. She told the specialist that she was living in [REDACTED] when she became pregnant and did not know the name of the father.
7. Claimant spoke with [REDACTED] on another date and again stated that she did not know the father.
8. The specialist suggested that she look on "social media."
9. On December 18, 2013, Claimant testified that she did not know who the father was.
10. Claimant was living in [REDACTED] at the time she became pregnant and slept with multiple men that she would meet while going on.
11. Claimant could not identify any of these men.
12. On November 25, 2013, the Department issued a Notice of Case Action denying Claimant.
13. On October 30, 2013, the Department sent Claimant a Notice of Case Action removing Claimant from the FAP group for noncompliance with OCS effective November 1, 2013 through September 30, 2014. (Exhibit 2).
14. On November 25, 2013, the Department denied Claimant for FIP effective November 1, 2013 and denied Claimant's CDC application effective October 6, 2013.
15. On December 11, 2013, the Department received Claimant's hearing requests for FIP, FAP, and CDC.

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 Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10 and 400.57a and Mich Admin Code, R 400.3101 to .3131.

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 Department did not meet its burden of proving that Claimant was noncompliant with OCS.

Claimant contacted OCS and provided all available information. The position of OCS is essentially that Claimant needs to provide a name or more information so that OCS can test someone. This presumes that Claimant knows more than she is telling. There is simply no evidence to support such a finding of fact. Such a finding could only be supported by speculation and conjecture, and a finding of fact cannot be based solely on speculation and conjecture. See *Cloverleaf Car Co. v. Phillips Petroleum Co.* 213 Mich.App. 186, 192-193, 540 N.W.2d 297, 301 (1995). There is simply no evidence to support the implication that Claimant is hiding something.

Further, in *Black v Department of Social Services*, 195 Mich App 27, 33; 489 NW2d 493; 496 (1992) held that the Department had not met its burden of proof when the claimant testified under oath that she had did not know the putative father. The Department did not meet its burden of proving that Claimant was noncompliant with OCS.

Claimant contacted OCS and provided all available information. The position of OCS is essentially that Claimant needs to provide a name or more information so that OCS can test someone. This presumes that Claimant knows more than she is telling. There is simply no evidence to support such a finding of fact. Such a finding could only be supported by speculation and conjecture, and a finding of fact cannot be based solely on speculation and conjecture. See *Cloverleaf Car Co. v. Phillips Petroleum Co.* 213 Mich.App. 186, 192-193, 540 N.W.2d 297, 301 (1995). There is simply no evidence to support the implication that Claimant is hiding something.

Further, in *Black v Department of Social Services*, 195 Mich App 27, 33; 489 NW2d 493; 496 (1992) held that the Department had not met its burden of proof when the claimant testified under oath that she had did not know the putative father.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it removed Claimant from the FAP group and denied Claimant FIP and CDC benefits.

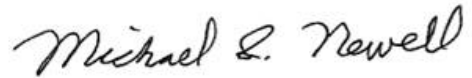
DECISION AND ORDER

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. Return Claimant to the FAP group to the effective November 1, 2013.

2. Reinstate the FIP and CDC applications to the denial dates and redetermine eligibility.
3. Provided any required retroactive and/or supplemental benefits as required by policy.



Michael S. Newell
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: March 28, 2014

Date Mailed: March 28, 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

MSN/las

cc:

