

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No.: 14-007102  
Issue No.: 3002; 6011  
Case No.: [REDACTED]  
Hearing Date: August 21, 2014  
County: MACOMB-20 (WARREN)

**ADMINISTRATIVE LAW JUDGE: Robert J. Chavez**

**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 August 21, 2014, from Warren, Michigan. Participants on behalf of Claimant included [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED] CM.

**ISSUE**

Due to a failure to comply with the verification requirements, did the Department properly  deny Claimant's application  close Claimant's case  reduce Claimant's benefits for:

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

Did the Department properly levy a sanction on claimant's benefit case for failing to comply with the Office of Child Support (OCS)?

**FINDINGS OF FACT**

The Administrative Law Judge, based upon the competent, material, and substantial evidence on the whole record, including testimony of witnesses, finds as material fact:

1. Claimant  applied for  received:  
 FIP  FAP  MA  SDA  CDC benefits.
2. Claimant was required to submit requested verification by June 13, 2014.

3. On June 23, 2014, the Department  
 denied Claimant's application.  
 closed Claimant's case.  
 reduced Claimant's benefits.
4. On June 23, 2014, the Department sent Claimant/Claimant's Authorized Representative (AR) notice of its action.
5. On July 7, 2014, Claimant/Claimant's Authorized Hearing Representative (AHR) filed a hearing request, protesting 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), and Department of Human Services 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 273. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001 to .3015.

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 9858g; 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.

With regards to the FAP benefits, an application may be denied if a claimant fails to submit required verifications. BAM 130. There is no dispute in the current case as to the necessity of verification.

Claimant was received the verification checklist in question, and requested and was granted an extension on June 13, 2014. Claimant's extension was granted until June 23, 2014. Claimant did not return the verifications in question. Claimant did not state any reason mitigating the circumstances. As such, the undersigned holds that the denial was proper.

With regards to claimant's CDC case, claimant's CDC was denied because of a sanction levied by the Office of Child Support (OCS).

Regulations governing the Office of Child Support (OCS) can be found in the Office of Child Support Policy Manual (OCSPM).

Clients 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. Failure to cooperate without good cause results in disqualification. Disqualification includes member removal, denial of program benefits, and/or case closure, depending on the program. BEM 255.

Noncooperation exists when the custodial parent (CP) does not respond to a request for action or does not provide information, and the process to establish paternity and/or a child support order cannot move forward without the CP's participation. A CP is in noncooperation with the IV-D program when the CP, without good cause, willfully and repeatedly fails or refuses to provide information and/or take an action needed to establish paternity or to obtain child support or medical support. OCSPM 2.15. IV-D staff apply noncooperation to a CP only as a last resort when no other option is available to move the IV-D case forward. OCSPM 2.3.

There is no minimum information requirement. CPs can be required to provide known or obtainable information about themselves, the child(ren) for whom support is sought, and the non-custodial parent (NCP) when needed to obtain support. OCSPM 2.3.1.

In evaluating cooperation, the IV-D worker should consider such factors as the CP's marital status, the duration of his/her relationship with the NCP, and the length of time since the CP's last contact with the NCP. OCSPM 2.3.1.

A CP can be required to cooperate by attesting under oath to the lack of information regarding an NCP. This may assist in determining cooperation in cases in which a CP's willingness to cooperate is questionable but there is insufficient evidence for a finding of noncooperation. The IV-D worker is not required to provide a CP with the opportunity to attest under oath if the CP has not demonstrated a willingness and good-faith effort to provide information. In this situation, the IV-D worker must evaluate whether the CP has knowingly withheld information or given false information, and base a decision on that evidence. OCSPM 2.3.5.

With regard to the child support noncooperation sanction, no evidence was presented that this sanction was correct. The only evidence presented with regard to the accuracy of the sanction was testimony attesting that the claimant was under sanction—this testimony cannot be used to prove itself. None of this evidence shows exactly why claimant is under a sanction, whether claimant has actually failed to cooperate, or how claimant is noncooperative.

Simply put, the Administrative Law Judge has received no evidence as to whether the sanction is accurate, why claimant was sanctioned, whether a sanction is warranted, or if claimant even requires child support that would support a sanction. OCS did not testify, and no other evidence regarding the sanction was presented; therefore, as the Department has the burden of proof in these matters, the sanction cannot stand. Furthermore, per claimant testimony, claimant has cooperated to the best of their ability, and there is no evidence that this sanction was applied as a last resort, as required by policy.

Additionally, it does not appear that claimant is even the parent to the children in question; claimant is a court-ordered guardian, and the undersigned knows of no policy allowing a child support sanction on a party that is not the parent to the children in question.

It should be noted that the undersigned spent roughly 30 minutes before the hearing attempting to contact somebody from OCS to appear at the hearing; the Administrative Law Judge was notified by OCS that no member from OCS would be appearing at the hearing. It was mentioned that the Macomb County Prosecutor's Office levied the sanction in the first place, without input from DHS; attempts to reach this office also failed.

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 denied claimant's FAP application.
- did not act in accordance with Department policy when it levied a child support sanction and denied claimant's CDC application.

### **DECISION AND ORDER**

Accordingly, the Department's decision is

- AFFIRMED IN PART with respect to FAP benefits and REVERSED IN PART with respect to the child support sanction and CDC benefits.
- 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 all child support noncooperation sanctions levied against the claimant, and reprocess claimant's CDC application of May 29, 2014.



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**Robert J. Chavez**  
Administrative Law Judge  
for Maura Corrigan, Director  
Department of Human Services

Date Signed: **9/3/2014**

Date Mailed: **9/3/2014**

RJC / tm

**NOTICE OF APPEAL:** A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, or the circuit court in Ingham County, within 30 days of the receipt date.

A party may request a rehearing or reconsideration of this Hearing Decision from the Michigan Administrative Hearing System (MAHS) within 30 days of the mailing date of this Hearing Decision, or MAHS may order a rehearing or reconsideration on its own motion.

MAHS may grant a party's Request for Rehearing or Reconsideration 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 party requesting a rehearing or reconsideration 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 this Hearing Decision is mailed.

A written request may be faxed or mailed to MAHS. If submitted by fax, 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

cc:

[REDACTED]