

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

IN THE MATTER OF:



Reg. No.: 14-010605
Issue No.: 3011
Case No.: [REDACTED]
Hearing Date: September 24, 2014
County: WAYNE-76

ADMINISTRATIVE LAW JUDGE: Lynn Ferris

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 three way telephone hearing was held on September 24, 2014, from Detroit, Michigan. Participants on behalf of Claimant included the Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Eligibility Specialist and [REDACTED], Lead Worker, Office Of Child Support.

ISSUE

Did the Department properly remove the Claimant from her Food Assistance (FAP) group?

FINDINGS OF FACT

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

1. The Claimant was an ongoing recipient of Food Assistance benefits.
2. The Claimant was found in noncooperation with the Office Of Child Support on July 29, 2014. The noncooperation was found due to the fact that the Claimant did not contact the Office Of Child Support after several notices were sent on May 30, 2014 and June 28, 2014.
3. The Department Issued a Notice of Case Action on July 29, 2014, removing the Claimant from her FAP group due to noncooperation with child support. Exhibit 1
4. The Office of Child Support placed the Claimant in cooperation on August 8, 2014. Exhibit 2.

5. The Claimant requested a timely hearing on August 18, 2014 protesting the Department's decrease of her food assistance benefits due to noncooperation with the Office of Child Support.

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 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.

Additionally, in this case the Department reduced the Claimant's food assistance benefits due to a finding of noncooperation by the Office of Child Support. The Office of Child Support found the Claimant in noncooperation on July 29, 2014, as it found the Claimant had not responded to prior notices that she contact them regarding the paternity of her child. Subsequently, the Office of Child Support placed the Claimant in cooperation on August 8, 2014. Exhibit 2.

Department policy found in BEM 255 provides:

SUPPORT DISQUALIFICATION

FIP, CDC Income Eligible, MA and FAP

Bridges applies the support disqualification when a begin date of non-cooperation is entered and there is no pending or approved good cause. The disqualification is **not imposed** if **any** of the following occur on or before the timely hearing request date; see BAM 600, Hearings:

- OCS records the comply date.
- The case closes for another reason.
- The non-cooperative client leaves the group.
- Support/paternity action is no longer a factor in the child's eligibility (for example, the child leaves the group).

- Client cooperates with the requirement to return assigned support payments to DHS and the support is certified.
- Client requests administrative hearing. BEM 255, (10/1/14), pp.11. (Emphasis supplied).

In this case, the Office of Child Support found the Claimant in cooperation on August 8, 2014. The Claimant's hearing request filed on August 19, 2014 **was not timely**. As per BAM 600, a timely hearing request is defined as:

All Programs

A **timely hearing request** is a request received by the department within 10 days of the date the notice of case action was issued. When the 10th calendar day is a Saturday, Sunday, holiday, or other non-workday, the request is timely if received by the following workday.

All Programs

If a client or AHR files an untimely hearing request, program benefits continue at the current level. BAM 600 (10/1/14) pp. 23-24

Thus based upon Department policy found in BAM 600 the hearing request filed by the Claimant was not timely as it was not filed within 10 days of the notice of case action and thus the Department correctly maintained the FAP benefits at the current level, in this case the decreased amount when it received the Claimant's hearing request.

Policy found in BEM 255 provides guidance regarding restoration of FAP benefits after cooperation with the Office of Child Support finds the client in cooperation and provides:

Bridges will **not** restore or reopen benefits for a disqualified member until the client cooperates (as recorded on the child support non-cooperation record) or support/paternity action is no longer needed. Bridges will end the non-cooperation record if any of the following exist:

- OCS records the comply date. Pp. 14
- FAP
- Failure to cooperate without good cause results in disqualification of the individual who failed to cooperate. The individual and his/her needs are removed from the FAP EDG for a minimum of one month. The remaining eligible group members will receive benefits. BEM 255, pp13

FAP only

Disqualified member is returned to the eligible group the month after cooperation or after serving the one-month disqualification, whichever is later. Pp.15

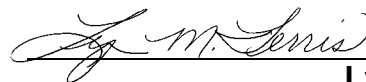
Based upon this definition, because the Claimant's Hearing Request was not timely received within 10 days of the notice of case action, the Department correctly removed Claimant from the FAP group for September 2014. The Claimant should be reinstated to her FAP group based upon her cooperation with child support as of August 8, 2014, if her FAP case is still open, effective October 1, 2014.

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 removed the Claimant from her FAP group effective September 1, 2014, for a one month period as explained above, as Claimant's hearing request regarding the disqualification due to noncooperation was not timely filed.

DECISION AND ORDER

Accordingly, the Department's decision is

AFFIRMED.



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

Date Signed: **9/25/2014**

Date Mailed: **9/25/2014**

LMF/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:

