

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

IN THE MATTER OF:

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

Reg. No.: 14-010506
Issue Nos.: 3011, 6011
Case No.: ██████████
Hearing Date: September 24, 2014
County: Wayne (49-Gr River/Warren)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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 September 24, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████
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ISSUES

1. Did the Department properly close Claimant's Child Development and Care (CDC) case based on a child support noncooperation sanction?
2. Did the Department properly remove Claimant as a member of her Food Assistance Program (FAP) group based on a child support noncooperation sanction and properly calculate the FAP benefits for the remaining FAP group members?

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 recipient of CDC and FAP benefits.
2. There were three members of Claimant's FAP group: Claimant and her two minor children.

3. On July 25, 2014, the OCS found Claimant in noncooperation with her child support reporting obligations with respect to her son, [REDACTED] (AR), [REDACTED]
4. On July 29, 2014, the Department sent Claimant a Notice of Case Action notifying her that, because of the child support sanction, effective August 24, 2014, her CDC case would close and, effective September 1, 2014, she would be removed from her FAP group and the group's FAP benefits would decrease to \$325 based on a group size of two.
5. On August 19, 2014, Claimant filed a request for hearing disputing the Department's actions concerning her CDC and FAP cases.

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.

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.

Additionally, as a condition of FAP eligibility and CDC eligibility based on income, the custodial parent of a minor child must comply with all requests for action or information needed to establish paternity and/or obtain child support on behalf of children for whom the parent receives assistance, unless a claim of good cause for not cooperating has been granted or is pending. BEM 255 (January 2014), p. 1.

The Department's evidence showed that Claimant was disqualified from her FAP group and her CDC case closed because she failed to comply with her child support reporting obligations concerning her minor child, AR. At the hearing, Claimant testified that she had provided the OCS with all the information she had concerning AR's father, which

was limited to his name and the fact that he lived in [REDACTED]. During the course of the hearing, she also produced a [REDACTED] address for the purported father and testified that she obtained this address from a friend who lived [REDACTED] and provided her with the information.

The OCS testified that, based on the information that Claimant initially provided, it ran a Lexis-Nexis search to find the father but there was no person with the name Claimant provided living [REDACTED] or, based on the specific address Claimant provided at the hearing, at the address she identified. The OCS further testified that, because Claimant gave the child the same last name she identified as that of the father's, it conducted a Lexis-Nexis search for [REDACTED] area using the child's first and last name. The search showed that there was a man in his 30's with the same name as Claimant's child living [REDACTED] either next door or in the same flat. In response to Claimant's testimony that her child was the only person with the name AR at or near her home, the OCS distinguished the AR it had uncovered in the Lexis-Nexis search from Claimant's child by noting that the individual identified in the search was born [REDACTED], was issued state identification, and had a criminal history.

Cooperation to establish paternity and obtain support includes providing all known information about the absent parent. BEM 255, p 8. In this case, the fact that the Department did not find anyone matching the father's name Claimant reported living [REDACTED] but was able to identify a man living in close proximity to Claimant with the same first and last name as Claimant's child called into question Claimant's testimony concerning the father's name and whereabouts. Furthermore, if Claimant continues to dispute the Department's position that the AR it identified in its search could be the child's father, Claimant's testimony that she had a friend [REDACTED] with information concerning the father's residence made it conceivable that additional information was available to Claimant regarding the father's identity. Because the evidence presented by the OCS was sufficient to support the OCS's concerns that Claimant was withholding additional information concerning the father that was not disclosed, the OCS properly concluded that Claimant was in noncompliance with her child support reporting obligations.

A client's failure to cooperate without good cause results in CDC ineligibility for clients who receive CDC benefits based on income-eligibility. BEM 255, p. 13. Thus, the Department acted in accordance with Department policy when it closed Claimant's CDC case based on the child support noncooperation.

Clients who do not cooperate with their child support reporting obligations are also disqualified members of their FAP groups. BEM 212 (July 2014), p. 8; BEM 255, p. 13. The client is removed from the FAP eligibility group for a minimum of one month and is not returned to the FAP group until the later of the month after cooperation or after serving the one-month disqualification. BEM 255, p. 15. Thus, the Department acted in accordance with Department policy when it removed Claimant as a disqualified member of her FAP group based on the child support noncooperation.

However, with respect to the calculation of the FAP budget that includes a client who is disqualified from her FAP group based on noncooperation with child support requirements, Department policy provides that the person be excluded from the FAP group count **and** that the Department budget a *pro rata* share of her earned and unearned income in calculating the remaining group members' FAP eligibility. BEM 550 (February 2014), pp. 3-4; BEM 212 (July 2014), p. 8.

The Department testified that, in calculating Claimant's FAP benefits following her disqualification, it did not make any changes to her budget other than remove her as a disqualified member of the group, resulting in the FAP group size going down to two from three. The Notice of Case Action shows that Claimant had earned income. Because the Department did not establish that it considered only a *pro rata* share of Claimant's earned income in calculating the remaining group members' FAP benefits, the Department did not act in accordance with Department policy.

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 closed Claimant's CDC case and disqualified her as a member of her FAP group but failed to satisfy its burden of showing that it acted in accordance with Department policy when it calculated the monthly FAP benefits for the remaining FAP group members.

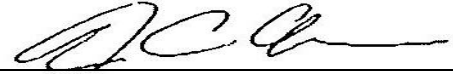
DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED IN PART with respect to closure of Claimant's CDC case and her disqualification from her FAP group AND REVERSED IN PART with respect to the calculation of the FAP benefits for Claimant's FAP group members.

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. Recalculate Claimant's FAP budget for September 1, 2014, ongoing;
2. Issue benefits to Claimant for any FAP benefits she was eligible to receive but did not from September 1, 2014, ongoing; and

3. Notify Claimant in writing of its decision in a DHS-1605, Notice of Case Action.



Alice C. Elkin
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

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

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

ACE / pf

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]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]