

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-014593
Issue No.: 1011, 3001
Case No.: 1 [REDACTED]
Hearing Date: November 20, 2014
County: WAYNE-31 (GRANDMONT)

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 telephone hearing was held on November 20, 2014, from Detroit, Michigan. Participants on behalf of Claimant included the Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED], [REDACTED] and [REDACTED] er, from the [REDACTED], also appeared.

ISSUE

Did the Department properly sanction the Claimant by removing her from the FAP group and closing her FIP cash assistance due to non cooperation with the Office of Child Support (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. The Claimant was an ongoing recipient of FIP benefits and FAP benefits.
2. The Claimant received two notices of appointment to appear at the office of the Wayne County Prosecutor to have a DNA sampling of herself and her child. Claimant Exhibit A. The Claimant appeared for the first appointment but had to leave when told it may take all day. The second appointment was scheduled for September 10, 2014, and the Claimant did not appear for the appointment as scheduled and did not reschedule the appointment or otherwise contact the Prosecutor's Office.

3. A Notice of Non-Cooperation was sent to the Claimant on September 16, 2014, indicating she was in Non-Cooperation due to failing to attend either of the appointments. Claimant Exhibit B. The Notice advised the Claimant to contact her caseworker only if the claim of good cause was to be made.
4. A Notice of Case Action dated September 17, 2014, was sent to the Claimant indicating her cash program would close effective October 1, 2014, and her food assistance would be decreased due to Non-Cooperation with the Office of Child Support. The Claimant was advised to call the Office off Child Support. Exhibit 1
5. Claimant was put in cooperation effective October 3, 2014 by the Office of Child Support. The Claimant underwent genetic testing on October 3, 2014.
6. The Claimant requested a hearing on October 21, 2014.

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, Pub. L. No. 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Family Independence Agency) administers FIP pursuant to 45 CFR 233-260, MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, 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 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, the Department sanctioned and closed the Claimant's cash assistance case, and reduced her food assistance benefits by removing the Claimant from her FAP group due to her failure to comply with the request for genetic testing by the Wayne County Prosecuting Attorney. The Claimant was found to be in Non-Cooperation by the OCS due to failure to undergo genetic testing due to missing her second appointment with the Prosecutor to have the test performed. Ultimately, the Claimant had the test performed and the OCS advised the Department that the Claimant was in cooperation with the Office of Child support effective October 3, 2014. Pursuant to Department policy, found in BEM 255 the Department was required to disqualify the Claimant for

one month, as she did not complete the testing and was not in cooperation prior to the FIP case closing October 1, 2014 and FAP reduction on October 1, 2014. Exhibit 1.

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 (emphasis supplied)

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

- For **FIP and FAP only**, a one-month disqualification is served when conditions (mentioned above) to end the disqualification are not met prior to the negative action effective date. Pp.15 BEM 255(10/1/14)

At the hearing, the Claimant asserted that she tried calling her caseworker to seek assistance, but clearly the Claimant was advised by the Non-Cooperation Notice that she had missed two appointments with the Wayne County Prosecutor to undergo genetic testing. Claimant Exhibit A. Claimant's attempt to blame the Department in this instance does not require relief, as the Claimant knew full well the problem was due to her missed appointments, and that the only reason she needed to contact the Department was if good cause was asserted. There was no evidence at the hearing that serious physical or emotional harm to the child or Claimant was present, or that birth was due to rape or incest.

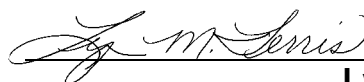
Based upon the record presented, the Claimant had two opportunities to take care of genetic testing and ultimately did undergo testing after the negative action date and thus, the Department had no option but to close her FIP case and remove her from the FAP group for one month. BEM 255.

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 the Claimant's FIP case and removed the Claimant from her FAP group due to her failure to cooperate.

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: **11/26/2014**

Date Mailed: **11/26/2014**

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 48909-8139

cc:

