

**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.: 14-00550; 14-007593
Issue No.: 3011; 6011
Case No.: ██████████
Hearing Date: August 21, 2014
County: WAYNE-DISTRICT (19)

ADMINISTRATIVE LAW JUDGE: Eric Feldman

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 August 21, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant, █████ █████. Participants on behalf of the Department of Human Services (Department or DHS) included ██████████, Partnership. Accountability. Training. Hope. (PATH) Case Manager. Also, ██████████, Senior Child Support Specialist with the Office of Child Support (OCS) was present for the hearing.

ISSUES

Did the Department properly disqualify Claimant from her Food Assistance Program (FAP) benefits due to her failure to establish paternity and/or obtain child support?

Did the Department properly deny/close Claimant's Child Development and Care (CDC) program application due to her failure to establish paternity and/or obtain child support?

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 FAP benefits.
2. On March 14, 2014, the OCS sent Claimant a first contact letter.
3. On April 13, 2014, the OCS sent Claimant a second contact letter.
4. Claimant failed to respond to either contact letter from the OCS.
5. In May 2014, Claimant applied for CDC benefits.

6. On May 9, 2014, the OCS sent Claimant a non-cooperation letter.
7. Effective May 9, 2014, Claimant was and still is in non-cooperation with the OCS due to her failure to respond to the contact letters. See Exhibit 1, p. 3.
8. On May 13, 2014, the Department sent Claimant a Notice of Case Action notifying her that her CDC benefits closed effective June 1, 2014, ongoing, due to her failure to establish paternity and/or obtain child support. Exhibit 1, pp. 4-10.
9. On May 13, 2014, the Department disqualified Claimant from her FAP benefits effective June 1, 2014, ongoing, due to her failure to establish paternity and/or obtain child support. Exhibit 1, pp. 4-10.
10. On May 16, 2014, Claimant contacted the OCS in an attempt to provide all information known about the absent parent.
11. On June 2, 2014 and July 16, 2014, Claimant filed a hearing request, protesting the CDC closure/denial and FAP closure. See Exhibit(s) 1, p. 2.

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 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.

As a preliminary matter, Claimant's hearing request dated July 16, 2014, indicated that she checked marked the "closed" box under the State Emergency Relief (SER) section. See Exhibit 1, p. 2. However, Claimant did not mark the "closed" box for the FAP section, which is directly above the SER box. See Exhibit 1, p. 2. Therefore, it is reasonable to conclude that Claimant meant to check mark the "closed" box for the FAP

benefits rather than the SER section. Moreover, Claimant acknowledged during the hearing that she is only disputing the CDC denial/closure and FAP closure. As such, this ALJ will only address Claimant's FAP and CDC benefits.

The custodial parent or alternative caretaker of children 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. BEM 255 (January 2014), p. 1.

Failure to cooperate without good cause results in disqualification. BEM 255, p. 2. Disqualification includes member removal, as well as denial or closure of program benefits, depending on the type of assistance (TOA). BEM 255, p. 2.

Cooperation is a condition of eligibility. BEM 255, p. 9. Cooperation is required in all phases of the process to establish paternity and obtain support. BEM 255, p. 9. It includes all of the following:

- Contacting the support specialist when requested.
- Providing all known information about the absent parent.
- Appearing at the office of the prosecuting attorney when requested.
- Taking any actions needed to establish paternity and obtain child support (including but not limited to testifying at hearings or obtaining genetic tests).

BEM 255, p. 9.

For FAP cases, failure to cooperate without good cause results in disqualification of the individual who failed to cooperate. BEM 255, p. 13. The individual and his/her needs are removed from the FAP EDG for a minimum of one month. BEM 255, p. 13. The remaining eligible group members will receive benefits. BEM 255, p. 13.

For CDC income eligible cases, the failure to cooperate without good cause results in ineligibility for CDC. BEM 255, p. 13. The Department will close or deny the CDC EDG when a child support non-cooperation record exists and there is no corresponding comply date. BEM 255, p. 13.

For CDC income eligible applications, the client has 10 days to cooperate with the OCS. BEM 255, p. 11. The Department informs the client to contact the OCS in the verification check list (VCL). BEM 255, p. 11. The disqualification is imposed if client fails to cooperate on or before the VCL due date when all of the following are true: there is a begin date of non-cooperation in the absent parent logical unit of work; there is not a subsequent comply date; support/paternity action is still a factor in the child's eligibility; and good cause has not been granted nor is a claim pending. BEM 255, pp. 11-12.

In this case, Claimant was an ongoing recipient of FAP benefits. In May 2014, Claimant applied for CDC benefits. On March 14, 2014, the OCS sent Claimant a first contact letter. Claimant testified that she received the March 2014 letter; however, she did not respond to the letter because she did not know the information about the absent parent. Then, on April 13, 2014, the OCS sent Claimant a second contact letter. Claimant testified that she could not recall receiving the second contact letter. The OCS case worker testified that Claimant failed to respond to either contact letter.

On May 9, 2014, the OCS sent Claimant a non-cooperation letter. Also, effective May 9, 2014, Claimant was and still is in non-cooperation with the OCS due to her failure to respond to the contact letters. See Exhibit 1, p. 3.

On May 13, 2014, the Department sent Claimant a Notice of Case Action notifying her that her CDC benefits closed effective June 1, 2014, ongoing, due to her failure to establish paternity and/or obtain child support. Exhibit 1, pp. 4-10. On May 13, 2014, the Department disqualified Claimant from her FAP benefits effective June 1, 2014, ongoing, due to her failure to establish paternity and/or obtain child support. Exhibit 1, pp. 4-10.

At the hearing, the Department testified that Claimant was generated a child support notice on May 9, 2014, to contact the child support specialist within 10 days of the notice. Subsequent to the hearing, the Department was instructed to fax the notice dated May 9, 2014, as an exhibit. However, it was discovered after the hearing that there was no such checklist dated May 9, 2014. Nonetheless, Claimant testified that she did recall receiving both a non-cooperation letter and a VCL dated on or around May 9, 2014.

Additionally, the OCS caseworker testified that Claimant did contact an OCS support specialist on May 16, 2014. The OCS caseworker testified as to the case notes the support specialist notated on that date. The OCS caseworker testified that Claimant failed to provide OCS all necessary information regarding the absent parent. Thus, the OCS caseworker testified that Claimant's non-cooperation continued. The OCS caseworker testified that Claimant contacted the OCS approximately three other times after the initial contact.

Claimant did not dispute any of the information provided to the support specialist on May 16, 2014. Claimant argued that she attempted to provide all necessary information regarding the absent parent. However, Claimant testified that she did not know the identifying information regarding the absent parent due to the incident being a one-time occurrence.

Based on the foregoing information and evidence, the Department improperly disqualified Claimant from her FAP benefits effective June 1, 2014 and improperly closed Claimant's CDC benefits effective June 1, 2014.

First, for CDC income eligible applications, the client has 10 days to cooperate with the OCS. BEM 255, p. 11. The Department informs the client to contact the OCS in the VCL. BEM 255, p. 11. The Department failed to present as evidence the VCL notice dated May 9, 2014; however, Claimant agreed that she received such a notice.

Moreover, the Department failed to give Claimant the 10 days to cooperate with the OCS. BEM 255, p. 11. The Department sent Claimant the CDC closure notice on May 13, 2014. See Exhibit 1, p. 4. The Notice of Case Action was less than 10 days from the date of the VCL notice was sent (dated May 9, 2014). As such, the Department failed to provide Claimant the days to allow her to cooperate with the OCS in regards to her CDC application. BEM 255, p. 11. Therefore, the Department improperly denied/closed Claimant's CDC benefits effective June 1, 2014. BEM 255, p. 11.

Second, Claimant credibly testified that she attempted to provide all known information about the absent parent. Even though Claimant acknowledges that she is unable to provide the identifying information, she has demonstrated cooperation with the OCS upon receipt of the contact notice dated May 9, 2014. Claimant contacted the OCS within 10 days of the letter (May 16, 2014) and attempted to provide the support specialist all known information. See BEM 255, p. 9. As such, it is found that Claimant was in cooperation with the OCS and the Department improperly disqualified Claimant from her FAP benefits and improperly closed/denied her CDC application.

DECISION AND ORDER

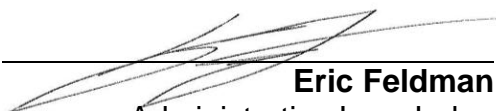
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when (i) it improperly disqualified Claimant from her FAP benefits effective June 1, 2014; and (ii) improperly denied/closed Claimant's CDC application effective June 1, 2014.

Accordingly, the Department's FAP and CDC 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. Remove any noncooperation sanction imposed by the Office of Child Support back to the date Claimant was last found to be in "non-cooperation", which is May 9, 2014, if not already completed;
2. Initiate reregistration and reprocessing of Claimant's CDC application for May 2014;
3. Remove Claimant's FAP disqualification effective June 1, 2014, ongoing;

4. Begin recalculating the FAP and CDC budgets for June 1, 2014, ongoing, in accordance with Department policy;
5. Issue supplements to Claimant for any FAP and CDC benefits she was eligible to receive but did not from June 1, 2014, ongoing; and
6. Notify Claimant in writing of its FAP and CDC decision in accordance with Department policy.



Eric Feldman
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: **8/26/2014**

Date Mailed: **8/26/2014**

EJF/cl

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.

