

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-008525
Issue No.: 3008
Case No.: [REDACTED]
Hearing Date: September 8, 2014
County: MACOMB-36

ADMINISTRATIVE LAW JUDGE: Lynn M. 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 September 08, 2014, from Sterling Heights, Michigan. Participants on behalf of Claimant included the Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED] Hearing Facilitator, and [REDACTED] Eligibility Specialist. [REDACTED] Lead Child Support Specialist from the Office of Child Support, also appeared as a witness for the Department.

ISSUE

Did the Department properly reduce the Claimant's Food Assistance (FAP) due to non-cooperation with the Office of 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. The Claimant was found in non-cooperation by the Office of Child Support on June 23, 2014 due the failure to provide a response to two prior inquiries sent to the Claimant regarding the paternity of her child. Exhibits 5 and 6
2. The Claimant did speak to the OCS on several occasions and advised the OCS that she did not know the father of her baby was.
3. The Department sent the Claimant a Notice of Case Action dated 7/19/14, which reduced the Claimant's FAP benefits, when it removed the Claimant from her FAP group due to non-cooperation, to \$ [REDACTED] effective August 1, 2014.

4. The Claimant never applied for State Emergency Relief (SER). The Claimant's request for hearing included a request for a hearing regarding SER which was added by her attorney by accident.
5. The Claimant's AHR and attorney was aware of the hearing held on September 8, 2014, but did not appear.
6. The Claimant requested a hearing on July 24, 2014, received July 28, 2014, protesting the reduction of her FAP benefits.

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, the issue in this case is whether the Claimant met the cooperation requirements found in BEM 255 requiring that Claimant's cooperate with determining paternity. It provides:

FIP, CDC Income Eligible, MA and FAP

Cooperation is a condition of eligibility. The following individuals who receive assistance on behalf of a child are required to cooperate in establishing paternity and obtaining support, unless good cause has been granted or is pending:

- Grantee (head of household) and spouse.
- Specified relative/individual acting as a parent and spouse.
- Parent of the child for whom paternity and/or support action is required.

Cooperation is required in all phases of the process to establish paternity and obtain support. 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; and
- Taking any actions needed to establish paternity and obtain child support (including but not limited to testifying at hearings or obtaining genetic tests). BEM 155, pp 9, (10/1/14).

In this case, the Claimant spoke to the Department on several occasions after she was determined to be in non-cooperation. The Lead Specialist Claimant who spoke to the Claimant directly testified that she found the Claimant's information to be conflicting and changing. At the hearing, the Claimant testified that she conceived her child during a one-night stand with a person she did not know. The Claimant testified that she met this person in a bar in [REDACTED], [REDACTED]. She could not remember the name of the bar. She further testified at the hearing that he was an out of state resident. The Claimant's testimony was confusing and it was not credible. The Claimant's child was born on [REDACTED], and thus was conceived on or about [REDACTED]. The Claimant also had a former boyfriend who she last saw 7 or 8 months ago or [REDACTED] 2014, thus the Claimant was still involved with her former boyfriend during the time her child was conceived. The OCS requested the Claimant consent to obtaining a paternity test of her former boyfriend, which she declined.

A review of the interview notes kept by the OCS witness when speaking to the Claimant paints a picture of changing stories. The Claimant completed an interview on August 18, 2014. During the interview, the Claimant advised that she met a man whose name is unknown to her at [REDACTED], and then went to an apartment for a party. She had sex with the man at the apartment, did not exchange names and did not recall his eye color, the car he drove or hair color, because he was wearing a hat and only knew a nickname of [REDACTED]. During this interview, she stated that she broke up with her former boyfriend in August 2013. The time of conception was noted as [REDACTED] 2013, and at the time of the interview the Claimant said she had not had a boyfriend in years. The original referral form completed by Claimant had included the name of her former boyfriend as the absent father. Interview notes indicate that when asked about this information, the Claimant said she listed him by mistake. The OCS also contacted the Department caseworker who the Claimant told that her child was conceived by a one-night stand in [REDACTED] hopping on a party bus with family member.

Given the nature of the Claimant's testimony and her inability to recall details and changing story of the one night stand when her child was conceived, and her refusal to have her former boyfriend tested even though they may have been involved as boyfriend and girlfriend at the time of conception, it is determined that the Claimant's testimony was not credible and that the Department correctly found that the Claimant was in non cooperation and properly removed the Claimant from her FAP group. BEM 255 provides:

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, pp14.

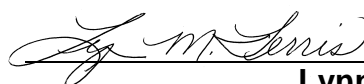
Lastly, there was no basis for the Claimant's request for hearing regarding SER as the Claimant never applied for SER, and thus there was no issue to be decided. The Claimant advised at the hearing that her attorney requested a hearing for SER in error.

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 reduced the Claimant FAP benefits due to non-cooperation with the Office of Child Support.

DECISION AND ORDER

Accordingly, the Department's decision is

AFFIRMED.



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

Date Signed: September 9, 2014

Date Mailed: September 9, 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:

