

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-012405
Issue No.: 3011
Case No.: [REDACTED]
Hearing Date: October 23, 2014
County: Ionia

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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 October 23, 2014, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED] and [REDACTED] of the Office of Child Support.

ISSUE

Did the Department properly determine that the Claimant has been non-cooperative with the Department's efforts to identify the absent parent?

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 is an ongoing Food Assistance Program (FAP) recipient.
2. The Claimant gave birth to a baby on June 5, 2014.
3. On July 5, 2014, the Department's Office of Child Support attempted to contact the Claimant to identify the absent parent of her child.
4. On August 20, 2014, after not receiving a response from the Claimant, the Office of Child Support determined that the Claimant was non-cooperative in its efforts to identify the absent parent.
5. On September 2, 2014, the Department notified the Claimant that it would sanction her Food Assistance Program (FAP) benefits which resulted in a reduction of her monthly allotment to \$ [REDACTED].
6. On September 23, 2014, the Department received the Claimant's request for a hearing, protesting the child support sanction placed on her Food Assistance Program (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.

Families are strengthened when children's needs are met. Parents have a responsibility to meet their children's needs by providing support and/or cooperating with the department, including the Office of Child Support (OCS), the Friend of the Court (FOC) and the prosecuting attorney to establish paternity and/or obtain support from an absent parent. 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. Failure to cooperate without good cause results in disqualification. Disqualification includes member removal, as well as denial or closure of program benefits. Department of Human Services Bridges Eligibility Manual (BEM) 255 (October 1, 2014), pp 1-2.

The Claimant was an ongoing Food Assistance Program (FAP) recipient when she gave birth to a baby on June 5, 2014. On July 5, 2014, the Department's Office of Child Support attempted to contact the Claimant to identify the absent parent. On August 20, 2014, after not receiving a response from the Claimant, the Office of Child Support determined that the Claimant was non-cooperative with its efforts to identify the absent parent. On September 2, 2014, the Department notified the Claimant that it would sanction her Food Assistance Program (FAP) benefits which resulted in a reduction of her monthly allotment to \$ [REDACTED]

The Claimant testified that she did not get any correspondence from the Department's Office of Child Support, and therefore was unable to cooperate with their efforts to identify the absent parent.

From July 5, 2014, through August 30, 2014, the Department's Office of Child Support sent its correspondence to the Claimant to an address different from the address where the Department sent its notice that it would reduce her Food Assistance Program (FAP) benefits on September 2, 2014. The Department failed to present evidence that a change of address was processed between August 30, 2014, and September 2, 2014.

The proper mailing and addressing of a letter creates a presumption of receipt. That presumption may be rebutted by evidence. *Stacey v Sankovich*, 19 Mich App 638 (1969); *Good v Detroit Automobile Inter-Insurance Exchange*, 67 Mich App 270 (1976). In this case, the Claimant has rebutted the presumption of receipt, and this

Administrative Law Judge finds that she did not receive any correspondence from the Department's Office of Child Support.

The Department alleges that the Claimant has refused to provide any information to identify the absent parent and bases this assertion on the lack of response by the Claimant to assist in the Department's investigation.

This Administrative Law Judge finds that the Department has failed to establish that the Claimant received the Department's invitation to cooperate with its efforts to identify the absent parent. The Department has failed to establish that the Claimant refused to provide information know to her about the identity of the absent parent. Therefore, this Administrative Law Judge finds that the Department has failed to establish that the Claimant has been non-cooperative with the Office of Child Support.


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 it sanctioned the Claimant's Food Assistance Program (FAP) benefits for non-cooperation with the Office of Child Support.

DECISION AND ORDER

Accordingly, the Department's 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. Initiate a determination of the Claimant's eligibility for Food Assistance Program (FAP) benefits as of October 1, 2014.
2. Provide the Claimant with a Notice of Case Action (DHS-1605) describing the Department's revised eligibility determination.
3. Issue the Claimant any retroactive benefits she may be eligible to receive, if any.



Kevin Scully
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: **10/27/2014**

Date Mailed: **10/27/2014**

KS/las

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:

