

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

IN THE MATTER OF:

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

Reg. No.: 2014 11146
Issue No.: 3011
Case No.: ██████████
Hearing Date: December 16, 2013
County: Wayne (15)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 following Claimant's request for a hearing. After due notice, a telephone hearing was held on December 16, 2013, from Detroit, Michigan. Participants on behalf of Claimant included the Claimant. Participants on behalf of Department of Human Services (Department) included ██████████ ██████████ Assistance Payments Supervisor.

ISSUE

Did the Department properly remove the Claimant from her Food Assistance (FAP) group 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. Claimant received benefits for:

- | | |
|--|---|
| <input type="checkbox"/> Family Independence Program (FIP). | <input type="checkbox"/> Adult Medical Assistance (AMP). |
| <input checked="" type="checkbox"/> Food Assistance Program (FAP). | <input type="checkbox"/> State Disability Assistance (SDA). |
| <input type="checkbox"/> Medical Assistance (MA). | <input type="checkbox"/> Child Development and Care (CDC). |

2. On October 29, 2013, the Department removed the Claimant from her Food Assistance Group due to non-cooperation with the Office of Child Support.
3. On October 29, 2013, the Department sent the Claimant a Notice of Case Action removing her from her FAP group due to non-cooperation with Child Support identification of the father of Claimant's children (twins).
4. At the hearing the Office of Child Support was not present because the Department did not notify the OCS of the hearing.
5. On October 31, 2013, Claimant filed a hearing request, protesting her removal from her FAP group due to non-cooperation.

CONCLUSIONS OF LAW

Department policies are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Reference Tables Manual (RFT).

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 271.1 to 285.5. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10 and Mich Admin Code, R 400.3001 to .3015.

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 (July 2013), 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, pp. 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, pp. 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, pp. 9.

For FAP cases, failure to cooperate without good cause results in disqualification of the individual who failed to cooperate. BEM 255, p. 14. The individual and his/her needs are removed from the FAP EDG for a minimum of one month. BEM 255, p. 14. The remaining eligible group members will receive benefits. BEM 255, pp. 14.

For FIP cases, failure to cooperate without good cause results in disqualification of the entire FIP group for failure to cooperate. BEM 255, pp.

In this case, Claimant was an ongoing recipient of FAP benefits. The Claimant was removed from her FAP group due a Notice of Non Cooperation and finding by the OCS that she failed to cooperate. The Office of Child Support found the Claimant in non-cooperation with regard to her twin boys who are 10 years of age. At the hearing the Claimant advised that she told the OCS that the father of her children by name was [REDACTED] who is now in prison. During his prison stay he took a paternity test and she and her children also provided DNA and it was determined that Criddle was not the father. The Claimant credibly testified that [REDACTED] was the only person whom she had unprotected sex with at the time. The Claimant testified that he acknowledged paternity until the test came back negative. The Claimant admitted that she had several sex partners during the period 10 years ago but all were with protection.

After the Claimant received notice from the Department she did contact the OCS. Unfortunately, the Claimant does not know who is the father of her twin boys. The Claimant's testimony was credible and there is no other information available to her to identify the father. Based on these facts and the credible testimony of the Claimant, the Department has not demonstrated that she refused to cooperate; the Claimant provided all the information available and cannot provide any information at this point as to who the twin's father might be. Therefore, the Department's removal of the Claimant from her FAP group is determined to be incorrect under these facts presented. BEM 255.

Based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, the Administrative Law Judge concludes that the Department improperly removed Claimant from her FAP group for non-cooperation with 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. The Department shall reinstate the Claimant to her FAP group effective October 29, 2013 and advise the OCS of this Decision so that the Non Cooperation Status is removed from Claimant's FAP case.
2. The Department shall issue a FAP supplement to the Claimant for FAP benefits the Claimant was otherwise entitled to receive in accordance with Department policy.



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

Date Signed: December 19, 2013

Date Mailed: December 19, 2013

NOTICE OF APPEAL: The claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, if a timely Request for Rehearing or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

Michigan Administrative Hearing System (MAHS) may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. MAHS will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request (60 days for FAP cases).

A Request for Rehearing or Reconsideration may be granted 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 Department, AHR or the claimant 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 the hearing decision is mailed.

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

LMF/cl

cc:

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