

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201414737
Issue No.: 3011
Case No.: [REDACTED]
Hearing Date: December 19, 2013
County: Wayne County DHS #49

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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 December 19, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED] Eligibility Specialist, and [REDACTED] Family Independence Manager.

ISSUE

Did the Department properly reduce Claimant's Food Assistance Program (FAP) benefits based on child support noncooperation?

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 based on a household with three FAP group members.
2. On November 7, 2013, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits were being reduced effective November 1, 2013, because she was being removed from the FAP group for failing to comply with child report requirements and for voluntarily quitting a job or reducing employment hours. Claimant was also notified that she would continue to be excluded from her FAP group for six months.
3. On November 18, 2013, the Department sent Claimant a Notice of Case Action notifying her that her FAP group size was increasing to three and her FAP benefits were increasing to \$[REDACTED] effective December 1, 2013, ongoing.

4. On November 22, 2013, Claimant filed a request for hearing disputing the Department's actions concerning her FAP case.

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

Additionally, in its November 7, 2013, Notice of Case Action, the Department notified Claimant that she was being removed from her FAP group and her FAP benefits would decrease effective November 1, 2013, because she had voluntarily terminated employment or failed to participate with employment activities and because she was not compliant with her child support reporting obligations. At the hearing, the Department testified that the issue of Claimant's termination of employment had been resolved and that Claimant's FAP benefits were not reduced because she had voluntarily terminated employment or failed to participate with employment activities. The Department provided evidence showing that any FAP employment sanction was removed from Claimant's record. Based on the evidence presented, the only basis for the disqualification of Claimant from her FAP group, and the resulting reduction in her FAP benefits, was due to child support noncooperation. The November 18, 2013 Notice of Case Action showed that Claimant was added back to her FAP group and her group size increased to three members, resulting in increased FAP benefits effective December 1, 2013. Claimant acknowledged that the only issue presented was the reduced FAP benefits for November 2013.

Department policy requires that the custodial parent 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 (October 2013), p. 1. A client's failure to cooperate without good cause results in that client's disqualification from her FAP group unless the Office of Child Support (OCS) records a compliance date on or before the timely hearing request date. BEM 255, pp. 2, 11, 13-14.

In this case, Claimant testified that she was not in noncooperation with child support and that she had contacted OCS and the OCS worker told her that there was nothing on its system showing that she was in noncompliance. The Department acknowledged that when it attempted to review Claimant's record on its own system concerning the child support noncompliance at issue there was no noncompliance showing. The

Department testified that the reduction in Claimant's FAP benefits based on the child support noncooperation was an error due to a "glitch" in its system.


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 removed Claimant from her FAP group for November 2013 based on child support noncooperation.

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. Remove any child support noncooperation sanction appearing on or about November 7, 2013, from Claimant's record;
2. Recalculate Claimant's FAP benefits for November 2013 ongoing to include Claimant as a qualified group member; and
3. Issue supplements to Claimant for FAP benefits she was eligible to receive but did not for November 2013 ongoing.


Alice C. Elkin
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: December 27, 2013

Date Mailed: December 27, 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

ACE/hj

cc:

