

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-15318
Issue No(s): 2000, 3011
Case No.: [REDACTED]
Hearing Date: January 9, 2014
County: DHS-SSPC-West

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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 January 9, 2014, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] the Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED] Eligibility Specialist.

ISSUE

Did the Department properly reduce the Claimant's Food Assistance Program (FAP) monthly allotment based on non-cooperation with child support requirements?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On October 2, 2013, the Claimant applied for FAP.
2. On October 31, 2013, a Notice of Case Action was issued stating, in part, FAP was approved in the amount of \$ [REDACTED] per month.
3. On November 13, 2013, a Notice of Case Action was issued stating the FAP monthly allotment would be reduced to \$ [REDACTED] per month effective December 1, 2013 due to the Claimant's failure to cooperate with child support requirements.

4. On November 26, 2013, the Claimant filed a request for hearing contesting the Department's action¹.

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 Mich Admin Code, R 400.3001 to .3015.

Additionally, 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. Cooperation is a condition of eligibility for FAP. 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

The support specialist determines cooperation for required support actions. The date client fails to cooperate will be populated in the absent parent logical unit of work and negative action is applied the same night automatically. Cooperation is assumed until negative action is applied as a result of non-cooperation being entered. The non-cooperation continues until a comply date is entered by the primary support specialist or cooperation is no longer an eligibility factor. The Department worker is to ask a disqualified client at application, redetermination or reinstatement if they are willing to cooperate. A disqualified member may indicate willingness to cooperate at any time. Immediately inform clients willing to cooperate to contact the primary worker from the CS icon or a support specialist can be reached by calling 1-866-540-0008 or 1-866-661-0005. BEM 255.

The Claimant applied for FAP on October 2, 2013. On October 31, 2013, a Notice of Case Action was issued stating, in part, FAP was approved in the amount of \$ [REDACTED] per month. (Exhibit 1, pages 37-44) On November 13, 2013, a Notice of Case Action was

¹ On the December 26, 2013 request for hearing, the Claimant also marked that she was contesting a Medicaid case action. On the record during the January 9, 2014 hearing proceedings, the Claimant testified that the Medicaid was fine and withdrew that portion of her appeal. Accordingly, the Medicaid portion of the Claimant's request for hearing is DISMISSED.

issued stating the FAP monthly allotment would be reduced to \$ [REDACTED] per month effective December 1, 2013 due to the Claimant's failure to cooperate with child support requirements. The notice indicates the Claimant was removed from the FAP group. (Exhibit A, pages 31-36)

The Claimant credibly testified that she completed a form for the Office of Child Support and mailed it to them. The Claimant has not yet received a response from the Office of Child Support. The Claimant also explained that there are six children, the father has custody of three, the Claimant has custody of three, and in the court settlement there was an agreement not to seek child support.

The Eligibility Specialist testified that Department has sought an update from the Office of Child Support due, but has not yet received any response. While the Department normally gets a response relatively timely from the Office of Child Support, they have not for the Claimant's case.

The evidence establishes that the Claimant is willing to cooperate with the Office of Child Support. Specifically, the Claimant completed a needed form which has been submitted to the Office of Child Support but neither the Claimant nor the Department has received any response. No one from the Office of Child Support participated in the hearing proceedings to establish that the Claimant continues to be non-cooperative with child support requirements.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it reduced the Claimant's FAP monthly allotment based on non-cooperation with child support requirements.

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. Re-determine the Claimant's eligibility for FAP retroactive to December 1, 2013 in accordance with Department policy.

2. Issue the Claimant's any supplement she may thereafter be due.

/s/
Colleen Lack
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: January 14, 2014

Date Mailed: January 15, 2014

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

CL/hj

cc:

