

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-17270
Issue No.: 3011
Case No.: [REDACTED]
Hearing Date: January 13, 2014
County: Wayne (57)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 January 13, 2014, from Detroit, Michigan. Participants included the above-named Claimant. Participants on behalf of the Department of Human Services (DHS) included [REDACTED], Manager, and [REDACTED], Specialist.

ISSUE

The issue is whether DHS properly imposed a child support disqualification against Claimant related to Claimant's Food Assistance Program (FAP) eligibility beginning 12/2013.

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 FAP benefit recipient.
2. Claimant is the mother of a daughter.
3. Claimant provided all known paternity information for her daughter to the Office of Child Support (OCS).

4. On [REDACTED] 13, DHS determined that Claimant was uncooperative with providing paternity information.
5. On [REDACTED]/13, DHS mailed a Notice of Case Action (Exhibits 1-2) determining Claimant's Food Assistance Program (FAP) eligibility, effective 12/2013, in part, based on a child support disqualification against Claimant.
6. On [REDACTED]/13, Claimant requested a hearing to dispute the child support disqualification as it affected her FAP eligibility.

CONCLUSIONS OF LAW

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

The present case concerns a FAP benefit determination. Claimant initially testified that she disputed a determination from 11/2013. Claimant conceded that 12/2013 was the first month affected by a child support disqualification after Claimant examined a Notice of Case Action (Exhibits 1-2). The only issue in dispute was whether DHS properly imposed a child support disqualification against Claimant.

Concerning FAP benefit eligibility, 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 (12/2011), p. 1. Failure to cooperate without good cause results in disqualification. *Id.* Disqualification includes member removal, as well as denial or closure of program benefits, depending on the type of assistance. *Id.* The support specialist (i.e. OCS) determines cooperation for required support actions. *Id.*, p. 8.

For FAP benefit eligibility, failure to cooperate without good cause results in disqualification of the individual who failed to cooperate. *Id.*, p. 11. The individual and his/her needs are removed from the FAP EDG for a minimum of one month. *Id.* The remaining eligible group members will receive benefits. *Id.*

It was not disputed that DHS imposed a child support disqualification against Claimant for an alleged failure to cooperate in establishing paternity for Claimant's daughter. Claimant testified that she contacted OCS with all of the information that she had for her daughter's father including his name and date of birth.

DHS has the burden to prove that the mother failed to provide requested information; and that the mother knew the requested information. *Black v. Dept. of Social Services*, 195 Mich App 27 (1992). DHS presented no such evidence.

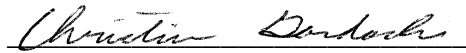
Claimant's testimony was credible and un rebutted. DHS presented no first-hand evidence to support the finding that Claimant was uncooperative with obtaining child support. It is found that Claimant was cooperative in establishing paternity for her child. Accordingly, the child support disqualification affecting Claimant's FAP benefit eligibility beginning 12/2013 was improper.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly determined Claimant's FAP eligibility. It is ordered that DHS perform the following actions:

- (1) redetermine Claimant's FAP benefit eligibility, effective 12/2013, subject to the finding that Claimant was compliant with establishing child support;
- (2) supplement Claimant for any benefits not issued as a result of the improper DHS determination; and
- (3) remove any relevant disqualification from Claimant's disqualification history.

The actions taken by DHS are **REVERSED**.


Christian Gardocki
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 1/22/2014

Date Mailed: 1/22/2014

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

CG/hw

cc:

