

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

IN THE MATTER OF:

██████████
██████████
██████████

Reg. No.: 2014-22070
Issue No(s): 1011;3011;5001
Case No.: ██████████
Hearing Date: February 13, 2014
County: Wayne (15)

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

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 February 13, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████, Eligibility Specialist and ██████████, Lead Specialist from the Office of Child Support (OCS).

ISSUE

Did the Department properly process Claimant's Family Independence Program (FIP), State Emergency Relief (SER) and Food Assistance Program (FAP) benefits?

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 an unverified date, Claimant submitted an application for SER.
2. On December 16, 2013, the Department sent Claimant a SER Decision Notice informing her that her application had been denied on the basis that she failed to cooperate with child support requirements. (Exhibit 1)
3. Claimant was an ongoing recipient of FIP and FAP benefits.
4. On January 6, 2014, the Department sent Claimant a Notice of Case Action informing her that effective February 1, 2014, her FIP case would be closed based on a failure to cooperate with child support requirements. (Exhibit 2)

5. Claimant was removed as a FAP group member effective December 1, 2013. (Exhibit 3)
6. On January 9, 2014, Claimant submitted a hearing request disputing the Department's actions.

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 Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10 and 400.57a and Mich Admin Code, R 400.3101 to .3131.

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 State Emergency Relief (SER) program is established by the Social Welfare Act, MCL 400.1-.119b. The SER program is administered by the Department (formerly known as the Family Independence Agency) pursuant to MCL 400.10 and by Mich Admin Code, R 400.7001 through R 400.7049.

Additionally, the custodial parents 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 she receives assistance, unless a claim of good cause for not cooperating has been granted or is pending. BEM 255 (October 2013), pp. 1. A client's cooperation with paternity and obtaining child support is a condition of FAP and FIP eligibility. BEM 255, pp. 1, 9-11. Cooperation is required in all phases of the process to establish paternity and obtain support and includes providing all known information about the absent parent. BEM 255, p 8. Any individual required to cooperate who fails to cooperate without good cause may result in group ineligibility or member disqualification for FAP and FIP. BEM 255, pp. 9-11. Department policy found in ERM 203 provides that Groups that are non-cooperative with the Office of Child Support are also ineligible for SER. ERM 203 (June 2013), p. 2.

In this case, on October 15, 2013, and October 23, 2013, the Office of Child Support (OCS) sent Claimant Contact Letters informing her to contact OCS and provide

information regarding the noncustodial parent. A Noncooperation Notice was issued to Claimant on October 30, 2013, informing her that she was considered to be noncooperative with child support and that her cases would be impacted. (Exhibit 5). The Department stated that although Claimant did respond to the letters and contacted the OCS, the information provided by Claimant was insufficient to find her in cooperation with child support requirements.

At the hearing, Claimant stated that she contacted OCS several times and spoke with different representatives in order to resolve the issue with child support. Claimant stated that her child was conceived after a one night stand, that she met the father for the first time that night and that she does not know anyone else who might know the father. Claimant identified one man who could possibly be the father of her child and provided his name, date of birth, and a physical description on the record. Claimant provided additional testimony concerning medical conditions that have impacted her memory specifically, that she had previously suffered from a stroke and that she has been diagnosed with bipolar disorder.

Under the facts presented, the OCS failed to establish that Claimant did not disclose all known information concerning the father and that she had additional information regarding the father's identity, thereby, making her ineligible for SER, FIP and FAP.

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 determined that Claimant was ineligible for SER, FIP and FAP based on a noncooperation 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. Remove the child support sanctions that were placed on Claimant's SER, FIP and FAP cases;
2. Register and process Claimant's application for SER to determine her eligibility for SER as of the application date;
3. Reinstate Claimant's FIP case effective February 1, 2014;
4. Issue supplements to Claimant for any FIP benefits that she was entitled to receive but did not from February 1, 2014, ongoing;

5. Recalculate Claimant's FAP budget effective December 1, 2013, including her as an eligible group member;
6. Issue supplements to Claimant for any FAP benefits that she was entitled to receive but did not from December 1, 2013, ongoing; and
7. Notify Claimant of its decisions in writing.



Zainab Baydoun
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: February 20, 2014

Date Mailed: February 21, 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

2014-22070/ZB

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

ZB/tm

cc: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]