

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

IN THE MATTER OF:

██████████
██████████
██████████

Reg. No.: 2014-28963
Issue Nos.: 2011, 3011
Case No.: ██████████
Hearing Date: April 9, 2014
County: Wayne (82-76)

ADMINISTRATIVE LAW JUDGE: Michael J. Bennane

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 April 9, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████
██████████

ISSUE

Did the Department properly close Claimant's Food Assistance (FAP) and Medical Assistance (MA) for noncooperation with OCS?

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 February 6, 2014, the Department sent Claimant a verification checklist directing Claimant to contact OCS to comply with child support requirements.
2. On February 14, 2014, the Department sent Claimant a notice of case action informing her that her FAP would close effective February 4, 2014, for noncooperation with OCS.
3. On February 21, 2014, Claimant requested a hearing to protest the denial of her FAP application and the closure of her MA.

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.

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act, 42 USC 1396-1396w-5, and is implemented by 42 CFR 400.200 to 1008.59. The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10 and MCL 400.105.

At the hearing, the representative from the OCS testified that Claimant's noncooperation began December 22, 2010.

The Department's hearing summary states that Claimant's FAP and MA benefits were both terminated until the OCS finds her in cooperation.

The notice of case action sent to Claimant on February 14, 2014, only addresses the denial of Claimant's FAP application.

After swearing in Claimant, this Administrative Law Judge questioned her about the information she had already supplied to the OCS. Claimant testified that she had provided the OCS with the name and last known address of the father of her child. Claimant was asked whether she had any further information and she replied in the negative.

This Administrative Law Judge then asked the OCS whether they had any evidence or knowledge that Claimant had further information concerning the father of her child.

Although the OCS testified that it did not have evidence or knowledge that Claimant had further information of the father of her child, it did testify that Claimant had given the OCS more than one name and that the address provided by Claimant was non-existent. The OCS further testified that Claimant had lived with the father of her child for the period of one year.

This information was provided by the OCS to counter Claimant's testimony that she lacked knowledge or evidence concerning the identification of the father of her child.

In *Black v Dept of Social Services*, 195 Mich App 27 (1992), the Court of Appeals addressed the issue of burden of proof in a non-cooperation finding. Specifically, the court in *Black* ruled that to support a finding of non-cooperation, the agency has the burden of proof to establish that the mother (1) failed to provide the requested verification and that (2) the mother knew the requested information. The *Black* court also emphasized the fact that the mother testified under oath that she had no further information and the agency failed to offer any evidence that the mother knew more than she was disclosing. *Black* at 32-34.

Here, Claimant testified that she had no further information to supply to the Department or to the OCS.

It should be noted that, although the Department failed to supply documentation of its having closed Claimant's MA, its hearing summary explicitly stated that Claimant's MA had been terminated.

This Administrative Law Judge will include in this order a reinstatement of Claimant's MA in the event that the Department did, in fact, terminate Claimant's MA as well as deny her application for 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

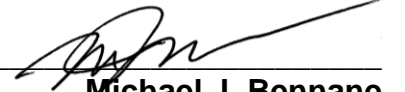
- acted in accordance with Department policy when it .
- did not act in accordance with Department policy when it closed Claimant's MA and denied her FAP application for noncooperation with the OCS.
- failed to satisfy its burden of showing that it acted in accordance with Department policy when it .

DECISION AND ORDER

Accordingly, the Department's decision is

- AFFIRMED.
- REVERSED.
- AFFIRMED IN PART with respect to and REVERSED IN PART with respect to .
- 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 noncooperation sanction imposed by the OCS back to the date Claimant was first found to be in noncooperation, which is December 22, 2010.
2. Supplement Claimant's benefits in FAP and MA as appropriate by the removal of the above noncooperation sanction.



Michael J. Bennane
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: April 15, 2014

Date Mailed: April 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

MJB/pf

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