

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-33880
Issue No(s): 3011
Case No.: [REDACTED]
Hearing Date: April 23, 2014
County: Wayne (43)

ADMINISTRATIVE LAW JUDGE: Eric Feldman

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 23, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department or DHS) included [REDACTED] Eligibility Specialist. Also, the Office of Child Support (OCS) was not present for the hearing.

ISSUE

Did the Department properly deny Claimant's Food Assistance Program (FAP) application dated February 6, 2014, due to her failure to establish paternity and/or obtain child support?

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 [REDACTED], Claimant was placed in non-cooperation with the OCS. See Exhibit 1.
2. On [REDACTED], Claimant applied for FAP benefits. See Exhibit 1.
3. On [REDACTED], the Department sent Claimant a Verification Checklist ("VCL"), which requested Claimant to comply with the OCS by [REDACTED]. Exhibit 1.

4. On [REDACTED], Claimant contacted the OCS and provided all necessary information regarding the absent parent.
5. On [REDACTED], the OCS placed Claimant in cooperation status. See Exhibit 1.
6. On [REDACTED], the Department sent Claimant a Notice of Case Action notifying her that her FAP application was denied effective [REDACTED], ongoing, due to her failure to comply with the verification requirements. See Exhibit 1.
7. On [REDACTED], Claimant filed a hearing request, protesting the Department's action. See Exhibit 1.

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.

As a preliminary matter, the Department testified that an OCS caseworker would not be present for the hearing. Thus, the hearing proceeded without the OCS present.

For FAP cases, the Department allows the client 10 calendar days (or other time limit specified in policy) to provide the verifications it requests. BAM 130 (January 2014), p. 5. The Department sends a negative action notice when: the client indicates refusal to provide a verification, or the time period given has elapsed and the client has not made a reasonable effort to provide it. BAM 130, p. 6.

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 (January 2014), p. 1.

Failure to cooperate without good cause results in disqualification. BEM 255, p. 2. Disqualification includes member removal, as well as denial or closure of program benefits, depending on the type of assistance (TOA). BEM 255, p. 2.

Cooperation is a condition of eligibility. BEM 255, p. 9. Cooperation is required in all phases of the process to establish paternity and obtain support. BEM 255, p. 9. It includes all of the following:

- Contacting the support specialist when requested.
- Providing all known information about the absent parent.
- Appearing at the office of the prosecuting attorney when requested.
- Taking any actions needed to establish paternity and obtain child support (including but not limited to testifying at hearings or obtaining genetic tests).

BEM 255, p. 9.

In this case, on [REDACTED], Claimant was placed in non-cooperation with the OCS. See Exhibit 1. On [REDACTED] Claimant applied for FAP benefits. See Exhibit 1. On [REDACTED], the Department sent Claimant a VCL, which requested Claimant to comply with the OCS by [REDACTED]. See Exhibit 1.

At the hearing, the Claimant did not dispute that she received the VCL. However, Claimant testified she did not understand the documentation requested and attempted to contact her DHS caseworker and supervisor for assistance, but, without any success. Thus, on [REDACTED], Claimant went to her local DHS office seeking assistance with the verification request. Ultimately, on [REDACTED], Claimant testified that she contacted the OCS and provided all necessary information regarding the absent parent. During the hearing, the Department confirmed that Claimant was placed in cooperation status as of [REDACTED]. See Exhibit 1. Nevertheless, the Department testified that Claimant failed to be in cooperation within the time period and on [REDACTED] Department sent Claimant a Notice of Case Action notifying her that her FAP application was denied effective [REDACTED], ongoing, due to her failure to comply with the verification requirements. See Exhibit 1.

For FAP applications, the client has 10 days to cooperate with the OCS. BEM 255, p. 11. The Department informs the client to contact the OCS in the verification check list (VCL). BEM 255, p. 11. The disqualification is imposed if client fails to cooperate on or before the VCL due date when all of the following are true: there is a begin date of non-cooperation in the absent parent logical unit of work; there is not a subsequent comply date; support/paternity action is still a factor in the child's eligibility; and good cause has not been granted nor is a claim pending. BEM 255, pp. 11-12.

Based on the foregoing information and evidence, the Department improperly denied Claimant's FAP application effective [REDACTED], ongoing. First, the OCS failed to be present for the hearing to rebut Claimant's testimony. Second, Claimant credibly testified that she contacted the OCS and provided all necessary information regarding the absent parent on [REDACTED] and therefore, was in cooperation as of that date. Claimant's credibility is supported by the fact that the Department acknowledged via its system that she was in cooperation as of [REDACTED]. See Exhibit 1. The Department sent Claimant a VCL, which requested her to comply with the OCS by [REDACTED]. See Exhibit 1. The evidence presented that Claimant did comply by the VCL due date. Because the Claimant complied with the OCS by the VCL due

date, the Department improperly denied her FAP application effective [REDACTED], ongoing. BAM 130, pp. 5-6 and BEM 255, pp. 1, 2, 9, and 11-12. The Department will remove Claimant's non-cooperation (if not already completed) and it will reprocess the FAP application.

DECISION AND ORDER

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 improperly denied Claimant's FAP application effective [REDACTED] ongoing.

Accordingly, the Department's FAP 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 noncooperation sanction imposed by the Office of Child Support back to the date Claimant was last found to be in "non-cooperation", which is [REDACTED], if not already completed;
2. Initiate reregistration and reprocessing of Claimant's FAP application dated [REDACTED]
3. Begin issuing supplements to Claimant for any FAP benefits she was eligible to receive but did not from [REDACTED], ongoing; and
4. Begin notifying Claimant in writing of its FAP decision in accordance with Department policy.


Eric Feldman
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 4/30/2014

Date Mailed: 4/30/2014

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

EJF/hw

cc:

