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

IN THE MATTER OF:

Reg. No.: 14-016221 Issue No.: 3011

Case No.:

Hearing Date: December 15, 2014
County: Wayne (35-Redford)

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 December 15, 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 remove Claimant from her Food Assistance Program (FAP) group?

### 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 recipient of FAP benefits.
- 2. On October 30, 2014, the Department sent Claimant a notice of case action informing her that her FAP benefits had been decreased because she had been removed from her FAP group.
- 3. On November 14, 2014, Claimant requested a hearing to protest the decrease in her FAP benefits.

# **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 273. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001 to .3015.

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 all the information she possessed about 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 Department whether they had any evidence or knowledge that Claimant had further information concerning the father of her child. The Department replied in the negative.

This Administrative Law Judge then asked the representative from the OCS whether it had any information as to Claimant's knowledge of the father of the child in question. When this Administrative Law Judge asked the OCS representative whether it had any evidence or knowledge that Claimant had further information concerning the father of her child, the OCS representative stated that Claimant should have knowledge of the identity of the father considering the background.

This Administrative Law Judge then ended that line of questioning.

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, under oath, that she had no further information to supply to the Department or to the OCS and the Department testified that it had no knowledge of Claimant possessing further information concerning the father of her child.

The Administrative Law Judge, based on the Law, and for the reasons stated on the reco	e above Findings of Fact and Conclusions of rd, if any, finds that the Department
FAP group and reduced her FAP benefit	ent policy when it removed Claimant from her
DECISION AND ORDER	
Accordingly, the Department's decision is	
<ul><li>□ AFFIRMED.</li><li>☑ REVERSED.</li><li>□ AFFIRMED IN PART with respect to</li><li>.</li></ul>	and REVERSED IN PART with respect to
ACCORDANCE WITH DEPARTMENT	TO BEGIN DOING THE FOLLOWING, IN POLICY AND CONSISTENT WITH THIS YS OF THE DATE OF MAILING OF THIS
Return to the closure date of December	er 1. 2014, and reinstate Claimant's benefits

that were reduced on that date and supplement for any missed benefits.

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

Date Signed: 12/26/2014

Date Mailed: 12/26/2014

MJB / pf

**NOTICE OF APPEAL:** A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, or the circuit court in Ingham County, within 30 days of the receipt date.

A party may request a rehearing or reconsideration of this Hearing Decision from the Michigan Administrative Hearing System (MAHS) within 30 days of the mailing date of this Hearing Decision, or MAHS <u>MAY</u> order a rehearing or reconsideration on its own motion.

MAHS MAY grant a party's Request for Rehearing or Reconsideration 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 party requesting a rehearing or reconsideration 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 this Hearing Decision is mailed.

A written request may be faxed or mailed to MAHS. If submitted by fax, 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 48909-8139

