

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 15-003382
Issue No.: 3011
Case No.: [REDACTED]
Hearing Date: April 8, 2015
County: Macomb (20)

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 April 8, 2015, from Detroit, Michigan. Participants included the above-named Claimant. Participants on behalf of the Department of Human Services (DHS) included [REDACTED], hearing facilitator, and [REDACTED], Office of Child Support (OCS) lead support specialist.

ISSUE

The issue is whether DHS properly disqualified Claimant from Food Assistance Program (FAP) eligibility due to non-cooperation with obtaining 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. Claimant was an ongoing FAP benefit recipient.
2. Claimant resides with two minor children, the youngest child being a 4 year old son.
3. On an unspecified date in 2011, DHS determined that Claimant was uncooperative in establishing child support for her youngest child.
4. On [REDACTED], DHS redetermined Claimant's ongoing FAP eligibility, in part, by factoring Claimant's continued non-cooperation with obtaining child support.
5. On [REDACTED], Claimant requested a hearing to dispute her ongoing disqualification due to child support as it relates to ongoing 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. DHS (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10 and Mich Admin Code, R 400.3001 to .3015. DHS policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), and Department of Human Services Reference Tables Manual (RFT).

Claimant requested a hearing to dispute her FAP eligibility as determined by a DHS case action dated January 28, 2015. Claimant's only dispute concerned her exclusion as a group member due to a child support disqualification. It was not disputed that DHS determined Claimant was uncooperative in establishing paternity for her youngest child.

Concerning FAP 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 (October 2014), p. 1. The support specialist (i.e. OCS) determines cooperation for required support actions. *Id.*, p. 10.

A lead OCS specialist testified that Claimant reported the name of her child's father. The OCS specialist also testified that Claimant's child's reported father could not be identified based on the provided information. Due to Claimant's failure to provide sufficient information to OCS to pursue child support, Claimant was determined to be uncooperative with obtaining child support.

OCS specialist testimony conceded that not all mothers unable to identify a child's father are necessarily being evasive about establishing paternity. A highly promiscuous lifestyle and/or mental health problems were cited as circumstances that tend to support a mother's claim of being unable to identify a child's father. It was not disputed that neither circumstance applied to Claimant.

Claimant testified that she knew her child's father approximately 3-4 months and that she saw him approximately 10-12 times. Claimant testified that she knew where he worked, where he lived, and that she reported all known information to OCS. Claimant's testimony was not disputed, however, OCS responded that the information was insufficient to locate Claimant's child's father.

Claimant's testimony was not implausible. It is possible that Claimant's child's father was residing in a residence that he did not own. It is possible that Claimant's child's father worked for under-the-table wages. These factors would make it more difficult for OCS to identify Claimant's child's father despite Claimant's reported information. The biggest obstacle to accepting Claimant's testimony had to do with her child's first name.

It was not disputed that Claimant's child had the same first name as her child's father. Claimant testified that she liked her child's father's name and simply gave it to her son; Claimant denied giving her son her child's father had any further significance. Claimant testified that she also named her other child after her child's father even though the child's father has not been in the child's life since not long after the child's birth.

Two notable differences exist between the naming circumstances of Claimant's oldest child and youngest child. Claimant conceded that her first-born child's father was in her child's life at the time the child was born; the same is not true of Claimant's youngest child's father. Secondly, Claimant established paternity for her oldest child, but not for her youngest child.

Essentially, Claimant named her youngest child after her child's father. Given the totality of circumstances, it is improbable that Claimant would name her child after her child's father without having sufficient information to locate her child's father. It is more likely than not that Claimant was purposely uncooperative with establishing paternity of her child.

It is found that OCS properly determined that Claimant was uncooperative in establishing paternity. For FAP benefits, failure to cooperate without good cause results in disqualification of the individual who failed to cooperate. *Id.*, p. 13. Accordingly, it is found that DHS properly disqualified Claimant for purposes of FAP eligibility.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly disqualified Claimant for purposes of FAP eligibility. The actions taken by DHS are **AFFIRMED**.



Christian Gardocki
Administrative Law Judge
for Nick Lyon, Interim Director
Department of Health and Human Services

Date Signed: **4/17/2015**

Date Mailed: **4/17/2015**

CG / hw

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 **MAY** 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

cc:

