

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-019647
Issue No.: 3011
Case No.: [REDACTED]
Hearing Date: May 20, 2015
County: Oceana

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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, telephone hearing was held on May 20, 2015, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED]. Participants on behalf of the Department included [REDACTED], supervisor, and [REDACTED] representing the Office of Child Support.

ISSUE

Did the Department of Health and Human Services (Department) properly sanction the Claimant's Food Assistance Program (FAP) benefits for non-cooperation with the Office of 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. The Claimant is an ongoing Food Assistance Program (FAP) recipient.
2. On November 19, 2014, the Office of Child Support determined that the Claimant was non-cooperative with the Department's efforts to identify and locate the absent father of the Claimant's child.
3. On November 20, 2014, the Department notified the Claimant that it would reduce her FAP benefits effective January 1, 2015, after disqualifying her from her benefit group for non-cooperation with the Office of Child Support.
4. On December 5, 2014, the Department received the Claimant's request for a hearing protesting the reduction of her FAP benefits.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Department of Health and Human Services Bridges Eligibility Manual (BEM), Department of Health and Human Services Reference Tables Manual (RFT), and Department of Health and Human Services Emergency Relief Manual (ERM).

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food and Nutrition Act of 2008, 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 Department of Human Services) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011.

Families are strengthened when children's needs are met. Parents have a responsibility to meet their children's needs by providing support and/or cooperating with the department, including the Office of Child Support (OCS), the Friend of the Court (FOC) and the prosecuting attorney to establish paternity and/or obtain support from an absent parent. 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. Failure to cooperate without good cause results in disqualification. Disqualification includes member removal, as well as denial or closure of program benefits. Department of Human Services Bridges Eligibility Manual (BEM) 255 (October 1, 2014), pp 1-2.

The Claimant is an ongoing FAP recipient. On November 19, 2014, the Department determined that the Claimant had been non-cooperative with the Office of Child Support's efforts to identify and locate the absent father of her child. On November 20, 2014, the Department notified the Claimant that it would reduce her monthly allotment of FAP benefits after disqualifying her from the benefit group.

The Department interviewed the Claimant on February 25, 2013. The Claimant reported to the Department that the absent father's name is Chris and that he may live or work in Ohio. Department records indicate that the interviewer believed the Claimant's story.

The Department interviewed the Claimant again on April 18, 2013. The Claimant reported to the Department that the person known only to her as [REDACTED] was the only person that could be the father of her child.

On November 7, 2014, the Department interviewed the Claimant. Department records indicate that on November 19, 2014, the Department placed the Claimant in non-cooperation status for failure to respond to contact letters.

The Office of Child Support representative testified that the Claimant was found to be non-cooperative with the Department's efforts to identify and locate the absent father due to inconsistencies with the information she provided during interviews. The Department determined that during one interview the Claimant was not sure whether the absent father lived or worked in Ohio, and later she thought that he worked for a

construction company in Ohio. The Claimant identified multiple locations of motels as locations where she consented to sexual relations with the absent father during her interviews with the Department.

This Administrative Law Judge finds that the Department has failed to present sufficient evidence that the Claimant failed to respond to contact letters. Department records indicate that the Department was unsuccessful in February of 2013, in its attempt to interview the Claimant, but after that she did participate in several interviews with the Office of Child Support.

Cooperation is required in all phases of the process to establish paternity and obtain support. 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.
BEM 255, p 9.

Further, under the federal regulations governing the program, cooperation includes 'attesting to the lack of information, under penalty of perjury.' 45 CFR 232.12(b)(3). Therefore, a mother who honestly asserts, under oath, that she has no further information regarding the child's father cannot be sanctioned for noncooperation solely on the basis of adverse blood test results. *Black v Department of Social Services*, 195 Mich App. 27, 489 N.W.2d 493.

This Administrative Law Judge finds that the Claimant did respond to the Department's requests for information, and while she did not provide as much information as the Department requested, she was not non-cooperative based on any failure to subject herself to the Department's interviews.

Based on the evidence and testimony available during the hearing, this Administrative Law Judge finds that the Department has failed to establish that the Claimant refused to provide all known information about the absent father. The Claimant described meeting with a person named [REDACTED] at a bar in Muskegon and that the two of them travelled separately to a motel where she consented to sexual relations with [REDACTED]. The interviewer for the Office of Child Support recorded that the Claimant's recollections of those events were believable on February 25, 2013. After subjecting herself to further interviews with the Office of Child Support, the Department determined that the Claimant had been non-cooperative with efforts to identify and locate the absent father on November 19, 2014.

This Administrative Law Judge finds that minor inconsistencies in the Claimant's recollections of the events leading to the birth of her child do not support a finding that the Claimant is aware of additional details that could be used to identify the absent father. The Claimant has attested to the lack of information about the absent father on numerous occasions and she testified during her hearing that she is unable to identify the absent father. The Claimant does not claimant to have good cause for failing to

identify the absent father and there is no evidence suggesting a motive for concealing the absent father's identity. This Administrative Law Judge finds that the Claimant's actions have met the definition of cooperation in BEM 255.


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 sanctioned the Claimant's Food Assistance Program (FAP) benefits because the evidence does not support a finding of non-cooperation with the Office of Child Support.

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. Delete the non-cooperation sanction from the Claimant's benefits case file.
2. Initiate a determination of the Claimant's eligibility for the Food Assistance Program (FAP) as of January 1, 2015.
3. Provide the Claimant with a Notice of Case Action (DHS-1605) describing the Department's revised eligibility determination.
4. Issue the Claimant any retroactive benefits she may be eligible to receive, if any.



Kevin Scully
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **5/22/2015**

Date Mailed: **5/22/2015**

KS/las

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:

