

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 15-006243
Issue No.: 1011
Case No.: [REDACTED]
Hearing Date: June 11, 2015
County: Mecosta

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 June 11, 2015, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED]. Participants on behalf of the Department included [REDACTED], family independence specialist, and [REDACTED] lead specialist.

ISSUE

Did the Department of Health and Human Services (Department) properly close the Claimant's Family Independence Program (FIP) benefits?

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 was an ongoing Family Independence Program (FIP) recipient.
2. On February 25, 2015, the Department requested that the Claimant provide information necessary to identify and locate the absent father one of her children.
3. On April 21, 2015, the Department notified the Claimant that it found her to have been noncooperative with the Office of Child Support.
4. On April 22, 2015, the Department notified the Claimant that it would close her Family Independence Program (FIP) benefits as of June 1, 2015.
5. On April 29, 2015, the Department received the Claimant's request for a hearing protesting the closure of Family Independence Program (FIP) 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 Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Department of Human Services) administers FIP pursuant to 45 CFR 233-260, MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3101-.3131.

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.

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.

The Claimant was an ongoing FIP recipient when the Department requested that she provide information necessary to identify and locate the absent father of one of her children. On April 21, 2015, the Department notified the Claimant that it found her to

have been noncooperative with the Office of Child Support. On April 22, 2015, the Department notified the Claimant that it would close her FIP benefits as of June 1, 2015.

The Claimant testified that she allowed herself to be interviewed by staff from the Department's Office of Child Support. The Office of Child Support representative testified that the Claimant's statements were believable and that there was no reason to suspect that the Claimant was withholding information.

Department records indicate that the Claimant attempted to obtain additional information concerning a person she believed to be the absent father, but that she may have been given false information by a relative of the absent father. The evidence supports a finding that the Claimant has made a reasonable attempt to assist the Department's efforts to locate the absent parent.

Based on the evidence and testimony available during the hearing, this Administrative Law Judge finds that the Claimant has provided all known information about the absent parent, which fits 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 closed the Claimant's Family Independence Program (FIP) benefits for noncooperation with the Department's 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. Remove the noncooperation sanction from the Claimant's benefit case file.
2. Initiate a determination of the Claimant's eligibility for the Family Independence Program (FIP) as of June 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: **6/12/2015**

Date Mailed: **6/12/2015**

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:

