

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

IN THE MATTER OF:

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████████████████████
████████████████████

Reg. No.: 15-008070
Issue No.: 6011, 3001
Case No.: ██████████
Hearing Date: June 22, 2015
County: WAYNE-DISTRICT 35
(REDFORD)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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; and Mich Admin Code, R 792.11002. After due notice, a three way telephone hearing was held on June 22, 2015, from Detroit, Michigan. Participants on behalf of Claimant included the Claimant. Participants on behalf of the Department of Health and Human Services (Department) included ██████████, Hearing Facilitator. ██████████, Lead Child Support Specialist.

ISSUE

Did the Department properly remove Claimant from her FAP group due to non-cooperation with the Office of Child Support (OCS)?

Was the hearing request dated May 13, 2015 timely with respect to FIP cash assistance denial and CDC denial?

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 receiving Food Assistance and was removed from her FAP group due to non-cooperation with the OCS. Exhibit 1.
2. The Claimant applied for CDC benefits and was denied for failure to provide proof of residency. The Claimant also applied for FIP cash assistance which was also denied. These benefits were denied for CDC as of November 2, 2014 and Cash

assistance as of December 1, 2014. The Notice of Case Action was dated December 23, 2014. The Claimant's hearing request was received by the Department on May 13, 2015.

3. The OCS placed the Claimant in non-cooperation as of May 12, 2013.
4. The Claimant provided information regarding the father of her child and details of where she worked with him including the name of the company.
5. The Department and the Claimant attempted to get the potential individual's name from the employment company without any results as the company would not release the information.
6. The Claimant also has a fiancé whom she was with at the time her child was conceived. The OCS did not seek a paternity test from the fiancé to see if he was the father of the child.
7. The Claimant requested a hearing on May 13, 2015 protesting the Department's denial of her CDC and FIP applications and her removal from the FAP group.

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.

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.

The Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, 42 USC 601-619, 670-679c, and 1397-1397m-5; the Child Care and Development Block Grant of 1990, PL 101-508, 42 USC 9858 to 9858q; and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-

193. The program is implemented by 45 CFR 98.1-99.33. The Department administers the program pursuant to MCL 400.10 and provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001-.5020. The State SSI Payments (SSP) program is established by 20 CFR 416.2001-.2099 and the Social Security Act, 42 USC 1382e. The Department administers the program pursuant to MCL 400.10.

In this case, the issue is whether the OCS properly determined that the Claimant failed to cooperate with OCS in identifying the father of the Claimant's child. At the hearing the Claimant did not know the name of the person she had sex with, an individual she knew as "D." The Claimant admitted that she had sex in 2005 and that she believes "D" is a potential father her child. The Claimant at one time had his number but deleted it when she began relating again to her prior fiancé and "D" advised her that the condom they used when having sex broke. The Claimant provided the Office of Child Support the name of the company where she and "D" worked at the time and the specific job assignment they both received where they worked together. The Claimant and the Department attempted on several occasions to get information on "D" from the personnel company but ultimately their requests were denied. It did not appear that the Claimant had an ongoing relationship with "D." Overall the Claimant's testimony regarding her encounter with "D" is deemed credible. Therefore, it is determined that as regards "D," the Claimant has provided all information that she has available. The OCS might consider providing the prosecutor with the employment information provided by the Claimant and have the prosecutor open a case and attempt by subpoena to obtain the information from the employer.

The Claimant also has a former fiancé who has fathered one of her children and has acknowledged paternity of that child (not the child in question) based upon Claimant's testimony at the hearing. Claimant credibly testified that she told the OCS about this individual. The Claimant further testified that this individual was paternity tested, and provided the name of the place where the testing was done at the hearing. The Claimant did not provide a copy of the paternity test. As regards her former fiancé, it does not appear that the Claimant fully disclosed that this individual had been tested to determine whether he was the father of her child. The Claimant did not offer such evidence to OCS or at the hearing. Thus, on this issue it is determined that the Claimant did not provide all information that might determine or eliminate known individuals who may have fathered her child to allow the OCS to find cooperation. As regards this individual the Claimant is deemed in non-cooperation with OCS.

Failure to cooperate without good cause results in disqualification. Disqualification includes member removal, as well as denial or closure of program benefits, depending on the type of assistance (TOA); see **Support Disqualification** in this item. BEM 255 (April 1, 2015) p. 3.

Cooperation is a condition of eligibility. The following individuals who receive assistance on behalf of a child are required to cooperate in establishing paternity and obtaining support, unless good cause has been granted or is pending:

- Grantee (head of household) and spouse.
- Specified relative/individual acting as a parent and spouse.
- Parent of the child for whom paternity and/or support action is required.

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 (including but not limited to testifying at hearings or obtaining genetic tests). BEM 255 p. 9.

Based upon these requirements, it is determined that the Claimant had demonstrated cooperation with OCS as regards providing OCS all the information available to her as regards the individual she identified as "D." This encounter occurred 9 years ago and both the Department and the Claimant were unsuccessful obtaining information that might lead to the identity of "D" from the personnel company they worked for.

As regards Claimant's fiancé at the time she left "D," the Claimant did not provide the paternity testing which the OCS should have been given by the Claimant to rule out his (fiancé's) paternity of the child. If the paternity test can be provided to OCS by Claimant or the identity of the fiancé provided to OCS so a test can be performed, upon completion of a paternity determination of the former fiancé, the Claimant must be deemed in cooperation as she will have provided all the information available to the OCS that she has regarding the potential father of her child.

Lastly, the Claimant's hearing request sought a hearing of the Department's denial of her applications for FIP cash assistance and CDC benefits. The Department denied these benefit applications by Notice of Case Action dated December 23, 2014. The Claimant's hearing request was received by the Department on May 13, 2015. It is

determined that the Claimant's hearing request on these issues is untimely and must be dismissed based upon Department policy found in BAM 600.

Regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in Mich Admin Code, R 400.901 through R 400.951. Rule 400.903(1) provides as follows:

An opportunity for a hearing shall be granted to an applicant who requests a hearing because [a] claim for assistance is denied or is not acted upon with reasonable promptness, and to any recipient who is aggrieved by a Department action resulting in suspension, reduction, discontinuance, or termination of assistance.

A request for hearing must be in writing and signed by the claimant, petitioner, or authorized representative. Mich Admin Code, R 400.904(1). Moreover, the Department of Human Services Bridges Administrative Manual (BAM) 600 (April 1, 2015), p. 10, provides in relevant part as follows:

The client or authorized hearing representative has *90 calendar days from the date of the written notice of case action to request a hearing*. The request must be received anywhere in DHS within the 90 days. [Emphasis added.]

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 acted in accordance with Department policy when it found Claimant in noncompliance for the reasons explained the Conclusions of Law, except as regards the individual known as "D." As regards the Claimant's former fiancé, the Department is required to determine his identity and determine paternity unless Claimant can provide an already existing paternity test to the OCS. Thus the Claimant was properly removed from her FAP group as she is determined still in non-cooperation with OCS.

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 Claimant's hearing request regarding the Department's denial of FIP and CDC is untimely.

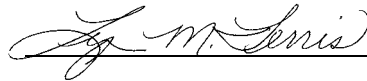
DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED in part**.

The Claimant's Request for hearing dated May 13, 2015 as regards the Department's denial of Claimant's applications for FIP cash assistance and CDC is hereby **DISMISSED AS UNTIMELY**.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, INACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. The Department shall seek verification of the identity of the Claimant's fiancé or verification of paternity test ruling said individual out as to paternity of the child in question, so that the determination of Claimant's cooperation with OCS can be completed.



Lynn M. Ferris
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **6/30/2015**

Date Mailed: **6/30/2015**

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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 copy of the claim or application for appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Hearing Decision from 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;

