

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

IN THE MATTER OF:

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

Reg. No.: 15-011211
Issue No.: 3011
Case No.: ██████████
Hearing Date: August 13, 2015
County: Macomb-District 36

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

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 August 13, 2015, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Health and Human Services (Department) included ██████████, Hearings Facilitator and ██████████, Lead Specialist with the Office of Child Support (OCS).

ISSUE

Did the Department properly determine that Claimant was ineligible for Food Assistance Program (FAP) benefits on the basis that she failed to cooperate with child support reporting requirements?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On May 28, 2014, Claimant was placed in non-cooperation with child support requirements, after the OCS determined that the information she provided regarding the absent parent was insufficient. (Exhibit D)
2. On or around June 5, 2015, Claimant submitted an application for FAP benefits.
3. On June 16, 2015, the Department sent Claimant a Verification Checklist (VCL) instructing her to submit requested verifications and to contact OCS to comply with child support requirements. (Exhibit B)

4. On June 24, 2015, the Department received Claimant's Claim of Good Cause-Child Support form and determined that she did not have a verified good cause claim. (Exhibit C)
5. On June 24, 2015, the Department sent Claimant a Notice of Case Action informing her that for the month of June 2015, she and her daughter were approved for FAP benefits but that effective July 1, 2015, Claimant was no longer included as a member of the FAP group. The Notice does not inform Claimant that her removal from the FAP group is based on a child support noncooperation sanction. (Exhibit A)
6. On June 24, 2015, Claimant requested a hearing disputing the Department's actions.

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.

As a preliminary matter, although the Department's hearing summary and evidence packet references the FIP/cash assistance program, Claimant confirmed that she requested a hearing only concerning her FAP child support disqualification.

Additionally, the custodial parents 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 she receives assistance, unless a claim of good cause for not cooperating has been granted or is pending. Absent parents are required to support their children. Support includes **all** of the following: child support, medical support and payment for medical care from any third party. BEM 255 (April 2015), p. 1. A client's cooperation with paternity and obtaining child support is a condition of FAP eligibility. BEM 255, pp. 1, 9-13. Cooperation is required in all phases of the process to establish paternity and obtain support and includes contacting the support specialist when requested and providing all known information about the absent parent, among other things. BEM 255, p 9.

At application, the client has ten days to cooperate with the OCS. The Department will inform the client to contact the OCS by sending a verification checklist (VCL). A disqualification will be imposed at application if the client fails to cooperate on or before the due date of the VCL and the criteria found in BEM 255 is not met. BEM 255, p. 11-12. Any individual required to cooperate who fails to cooperate without good cause may result in group ineligibility or member disqualification for FAP. BEM 255, pp. 9-14.

In this case, the OCS representative testified that contact letters were sent to Claimant on April 3, 2014, and May 3, 2014, instructing her to contact the OCS and provide information concerning the absent parent of her child. A non-cooperation notice was issued to Claimant on May 28, 2014, which was the date the Department imposed the non-cooperation disqualification. (Exhibit D).

At the hearing, the representative from the OCS stated that after submitting her FAP application and receiving the VCL, Claimant contacted OCS and stated that she did not have any information on the absent parent. (Exhibit D). The OCS representative testified that Claimant continued to be in noncooperation with child support requirements.

Claimant testified that she contacted OCS and attempted to resolve the issue with child support. Claimant stated that her child was conceived when she was ■ years old. Claimant stated that she went to a party with friends in ■ and that she was extremely intoxicated. Claimant testified that she does not have any information on the father of her child, that she does not remember anything from that night and does not know how she made it back to her friend's home after the party. Claimant stated that she and the absent father did not exchange contact information, that she does not know his name and that she cannot provide a physical description because she was too intoxicated that night. Claimant testified that after that night at the party, she did not have any other contact with him. Claimant's testimony at the hearing was consistent with the information she provided the OCS with during the interview.

Under the facts presented, the Department and the OCS have failed to establish that Claimant had additional information regarding the father's identity that she failed to disclose, thereby, making her ineligible for FAP benefits.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it determined that Claimant was ineligible for FAP benefits based on a non-cooperation with child support requirements.

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 child support sanction placed on Claimant's FAP case;
2. Recalculate Claimant's FAP budget for July 1, 2015, ongoing, to include her as an eligible group member; and
3. Issue supplements to Claimant for FAP benefits from July 1, 2015, ongoing, in accordance with Department policy.



Zainab Baydoun
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **8/21/2015**

Date Mailed: **8/21/2015**

ZB / tlf

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;
- 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:

[REDACTED]