

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

IN THE MATTER OF:

██████████
██████████
██████████

Reg. No.: 15-011842
Issue No.: 3011
Case No.: ██████████
Hearing Date: August 17, 2015
County: Wayne-District 57

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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 telephone hearing was held on August 17, 2015, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Health and Human Services (Department) included ██████████, Eligibility Specialist, and ██████████, Lead Worker with the Office of Child Support (OCS); who participated via 3-way telephone conference.

ISSUE

Did the Department properly reduce Claimant's Food Assistance Program (FAP) benefits due to a child support noncooperation sanction?

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 is an ongoing recipient of FAP benefits.
2. There are three members in her household: Claimant and her two minor children.
3. On June 11, 2015, the Department sent Claimant a Notice of Case Action notifying her that, because she was in noncooperation with her child support requirements, effective July 1, 2015, she was being removed as a qualified member of her FAP group and her monthly FAP benefits were decreasing to \$357 as a result of the decreased FAP group size. (Exhibit A.)

4. On June 29, 2015, Claimant filed a request for hearing disputing 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.

As a condition of FAP eligibility, the custodial parent of a minor child must comply with all requests for action or information needed to establish paternity and/or obtain child support on behalf of children for whom the parent receives assistance, unless a claim of good cause for not cooperating has been granted or is pending. BEM 255 (April 2015), p. 1. Cooperation includes appearing at the office of the prosecuting attorney when requested and taking any actions needed to establish paternity and obtain child support, including, but not limited to, obtaining genetic tests. BEM 255, p. 9. A client who fails without good cause to cooperate with her child support reporting obligations is disqualified from her FAP group until the latter of when the client cooperates or one month. BEM 212 (July 2014), p. 8; BEM 255, p. 14.

At the hearing, OCS testified that Claimant had been placed in noncooperation by the Wayne County Prosecuting Attorney's Office because she had failed to comply with any of the three notices sent to her requiring her to submit to genetic testing on March 10, 2015, April 16, 2015, and June 2, 2015. Claimant testified that she did not receive the letters requiring genetic testing, scheduled for March 10 and April 16, until after each of those two dates had passed. In support of her testimony, she presented documentation showing at least the first notice had been sent to her at her old address on West Grand Blvd., and then forwarded to her current address (Exhibit 1). OCS was able to review notes on its file from the Prosecuting Attorney's Office showing that, consistent with her testimony, Claimant notified the Prosecuting Attorney's Office that she did not receive the letter requiring her attendance on April 16, 2015, until after that date, on April 22, 2015. Claimant denied ever receiving the notice requiring her to submit to testing on June 2, 2015. Although the OCS worker testified that the address for Claimant on file for both OCS and the Prosecuting Attorney's Office was the address Claimant had identified as her current address at the hearing, OCS was unable to establish the

address to which the Prosecuting Attorney's Office sent any notices other than the June 11, 2015 Notice of Noncompliance.

Based on the evidence presented by Claimant and the lack of evidence from the Prosecutor's Office to counter Claimant's testimony that she did not receive the notices requiring her to submit to genetic testing, the Administrative Law Judge finds that the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it reduced Claimant's FAP benefits.

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 applied to Claimant's case on June 11, 2015;
2. Recalculate Claimant's FAP benefits for July 1, 2015, ongoing to include Claimant as a member of the FAP group; and
3. Issue supplements to Claimant for FAP benefits she was eligible to receive but did not from July 1, 2015, ongoing.



Alice C. Elkin
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

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

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

ACE / 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]