

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 15-000573
Issue No.: 2011, 3011
Case No.: [REDACTED]
Hearing Date: February 11, 2015
County: Midland

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 February 11, 2015, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] and her authorized hearings representative [REDACTED] and advocate from [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED] and [REDACTED] as hearings facilitators.

ISSUE

Did the Department properly sanction the Claimant's Medical Assistance (MA) and Food Assistance Program (FAP) benefits due to her non-cooperation with the prosecuting attorney's office?

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 November 14, 2014, the Claimant applied for Medical Assistance (MA) and Food Assistance Program (FAP) benefits.
2. On December 17, 2014, the Department notified the Claimant that it would close her Medical Assistance (MA) benefits January 1, 2015.
3. On January 5, 2015, the Department notified the Claimant that it would close her Food Assistance Program (FAP) benefits effective February 1, 2015.
4. On January 16, 2014, the Department received the Claimant's request for a hearing protesting the closure of her Medical Assistance (MA) and Food Assistance Program (FAP) benefits.

CONCLUSIONS OF LAW

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

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food Stamp Act of 1977, 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 Family Independence Agency) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001 to .3015.

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. The Department (formerly known as the Family Independence Agency) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

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 applied for Medical Assistance (MA) and Food Assistance Program (FAP) benefits on November 14, 2014.

A representative of the [REDACTED] office testified that the Claimant failed to respond to requests to participate in interviews to collect information about the absent parent of her children. This representative testified that the Claimant was sent letters on November 19, 2013, and April 16, 2014. When the Claimant did not respond to these letters, the [REDACTED] office notified the Department that the Claimant had been non-cooperative.

The Claimant moved from Saginaw County to Midland County. As a result, the Claimant's benefits case with the Department had to be transferred to the Midland County office. A non-cooperation sanction entered by the [REDACTED] office was removed, and this sanction was renewed in Midland County.

The Department disqualified the Claimant from her Food Assistance Program (FAP) benefits group and as a result, the Claimant's benefit group was found to have excess income to receive benefits under the new group size. The Department also closed the Claimant's Medical Assistance (MA) benefits due to the non-cooperation sanction, although other members of her group remain eligible.

The representative of the [REDACTED] testified that its requests to interview the Claimant were sent by mail to the address supplied by the Department, which was [REDACTED]. The Claimant testified that it was common for her not receive her mail if it the address included a [REDACTED] as opposed to the letter [REDACTED] following the number [REDACTED]. The representative of the [REDACTED] testified that her office has no records of mail sent to the Claimant being returned by the U.S. Postal Service.

The Department alleges that the Claimant failed to cooperate when she did not respond to requests by the [REDACTED] to be interviewed. It has not been alleged that the Claimant has refused to identify or locate the absent parent.

While a presumption arises that a letter with a proper address and postage will, when placed in the mail be delivered by the postal service, this presumption can be rebutted with evidence that the letter was not received. If such evidence is presented, as it was here, then a question of fact arises regarding whether the letter was received. [Citations omitted.] *Goodyear Tire & Rubber Co v Roseville*, 468 Mich 947; 664 NW2d 751 (2003).

No documentary evidence or copies of letters the Claimant allegedly ignored were presented as evidence during the hearing. The Claimant's testimony provides a feasible explanation as to why she might not have received them. The Claimant's testimony is just as credible as that of the Department's witness.

The Department has the burden of proof in this case, which includes a burden of producing evidence. The Department had the opportunity to produce evidence that the Claimant received the letters she has been accused of failing to respond to but chose not to.

This Administrative Law Judge finds that the Claimant has rebutted the presumption that she received invitations by the [REDACTED] office to participate in an interview. Therefore, the Department has failed to establish that the Claimant has refused to cooperate with efforts to establish paternity and/or obtain support from an absent parent as required by 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 Medical Assistance (MA) and Food Assistance Program (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. Provide the Claimant with an opportunity to provide the Department with information necessary to establish paternity and/or obtain support from an absent parent as required by policy.
2. Initiate a determination of the Claimant's eligibility for Medical Assistance (MA) as of January 1, 2015.
3. Initiate a determination of the Claimant's eligibility for Food Assistance Program (FAP) benefits as of February 1, 2015.
4. Provide the Claimant with a Notice of Case Action (DHS-1605) describing the Department's revised eligibility determination.
5. Issue the Claimant any retroactive benefits she may be eligible to receive, if any.



Kevin Scully
Administrative Law Judge
for Nick Lyon, Acting DHS Director
Department of Human Services

Date Signed: **2/18/2015**

Date Mailed: **2/18/2015**

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 48909-07322

cc:

