

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

IN THE MATTER OF:

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

Reg. No.: 15-002651
Issue No.: 3011
Case No.: ██████████
Hearing Date: March 25, 2015
County: Wayne-District 15 (Greydale)

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. After due notice, a telephone hearing was held on March 25, 2015, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and ██████████, Claimant's husband. Participants on behalf of the Department of Human Services (Department) included ██████████, Assistance Payment Worker, and ██████████ lead specialist with the Office of Child Support (OCS), who participated via 3-way telephone conference.

ISSUE

Did the Department properly deny Claimant's December 29, 2014 application for Food Assistance Program (FAP) 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. On December 29, 2014, Claimant applied for FAP assistance for herself, her husband, and their ██████-year-old daughter G.
2. On February 11, 2015, Claimant went to her local Department office to request information concerning the status of her FAP application.
3. On February 13, 2015, the Department sent Claimant a Verification Checklist (VCL) requesting that she contact OCS and verify her compliance with OCS child support requirements by February 23, 2014.

4. OCS identified Claimant as compliant with child support reporting obligations on February 24, 2015.
5. On an unknown date, the Department sent Claimant a Notice of Case Action denying her FAP application.
6. On February 24, 2014, Claimant filed a request for hearing disputing the Department's actions.

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.

Cooperation with OCS is a condition to FAP eligibility. BEM 255 (October 2014), pp. 1, 9. When a client applies for FAP benefits and the Department becomes aware of the client's child support noncooperation, the Department must send the client a VCL giving the client ten days to cooperate with OCS. BEM 255, p. 11. The client is disqualified from the FAP group for a one-month minimum if the client fails to cooperate on or before the VCL due date when all of the following are true: (i) there is a begin date of noncooperation, (ii) there is not a subsequent comply date, (iii) support/paternity action is still a factor in the child's eligibility, and (iv) good cause has not been granted nor is a claim pending. BEM 255, pp. 11-12.

In this case, OCS testified that Claimant was in noncompliance with her child support reporting obligations with respect to her daughter G as of May 8, 2010. OCS explained that at that time, Claimant's now ■-year-old daughter had received Medical Assistance (MA) benefits as a minor and Claimant was asked to verify the father's paternity based on concerns that he was not living in the household and was an absent parent. Support/paternity is still a factor in a child's eligibility even for individuals who are now adults if there is the individual is a member of the group and has been on assistance as a dependent child and had an absent parent. BEM 255, p. 1. OCS testified that Claimant did not comply with her OCS reporting obligations until February 24, 2015, when she called OCS and established that her husband was G's father and had been identified as G's father at birth in her birth certificate.

The Department alleges that, because Claimant complied with her OCS reporting obligations one day after the VCL due date, the application was properly denied. However a support disqualification results in the removal of the noncooperative individual from the FAP group, not group ineligibility if the remaining group members are otherwise eligible. BEM 255, p. 13. In this case, even if Claimant was disqualified from her FAP group, there were two remaining FAP group members, Claimant's husband and her daughter G, and no evidence presented that their FAP eligibility was processed.

Furthermore, while the Department testified that a Notice of Case Action denying the application was *probably* sent on February 23, 2014, it failed to provide a Notice of Case Action into evidence. In the absence of such notice, the negative action date, as well as the reason the application was denied, cannot be confirmed. A disqualification is not imposed if OCS records a comply date on or before the timely hearing request date. BEM 225 (October 2014), p. 11. Because the Department cannot establish that Claimant failed to comply with her OCS reporting obligations prior to the negative action date, the Department has failed to satisfy its burden of showing that it acted in accordance with Department policy when it concluded that Claimant was disqualified from the FAP group and denied Claimant's FAP application.

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. Designate Claimant as a qualified member of her FAP group as of December 29, 2014;
2. Reregister and reprocess Claimant's December 29, 2014, FAP application to include Claimant as a qualified group member;

3. Issue supplements to Claimant for any FAP benefits she was eligible to receive but did not from December 29, 2014, ongoing; and
4. Notify Claimant in writing of its decision.



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

Date Signed: **3/30/2015**

Date Mailed: **3/31/2015**

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 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: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
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