

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No.: 15-005385  
Issue No.: 1011, 3011  
Case No.: [REDACTED]  
Hearing Date: May 19, 2015  
County: Kent-District 1

**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 May 19, 2015, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED]ell. Participants on behalf of the Department included [REDACTED] as hearings facilitator and [REDACTED] representing the Office of Child Support.

**ISSUE**

Did the Department of Health and Human Services (Department) properly sanction the Claimant's Family Independence Program (FIP) and Food Assistance Program (FAP) benefits for failure to cooperate with the Office of Child Support?

**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 an ongoing Family Independence Program (FIP) and Food Assistance Program (FAP) recipient.
2. On January 30, 2015, the Department requested that the Claimant provide the Department with information necessary to identify and locate the father of her child.
3. On February 18, 2015, the Claimant submitted herself to an interview as part of the Department's efforts to identify and locate the absent parent.
4. On March 27, 2015, the Department notified the Claimant that she had been found to be non-cooperative with the Office of Child Support.
5. On March 30, 2015, the Department notified the Claimant that her FIP benefits would close as of May 1, 2015, and she would be disqualified from her FAP benefit group as of April 1, 2015, due to a child support non-cooperation sanction.

6. On April 3, 2015, the Department received the Claimant's request for a hearing protesting the sanctions placed on her FIP and 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 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.

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 was an ongoing FIP and FAP recipient when the Department requested that she provide the Department with information necessary to identify and locate the absent parent of her child. On February 18, 2015, the Department interviewed the Claimant and she reported that the father's name is Josh and that he was a customer at the gas station where she worked.

On March 27, 2015, the Department notified the Claimant that it found her to be non-cooperative with efforts by the Office of Child Support to identify and locate the absent father of her children.

The representative of the Office of Child Support testified that based on interviews with the Claimant conducted after placing her case into non-cooperation status, the Department determined that the Claimant likely had a couple encounters with the absent father and that the father may be in the military because he was seen wearing a

uniform. The Department's representative testified that the Claimant was given multiple opportunities to cooperate and did not respond to one of these requests.

The Claimant testified that she met the absent father when he was a customer of the gas station where she is employed. The Claimant testified that she identified another person that could possibly be the father of her child but that the Department refused to investigate that person with a known identity until the person known only as [REDACTED] could be confirmed or eliminated.

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.  
BEM 255, p 9.

Further, under the federal regulations governing the program, cooperation includes 'attesting to the lack of information, under penalty of perjury.' 45 CFR 232.12(b)(3). Therefore, a mother who honestly asserts, under oath, that she has no further information regarding the child's father cannot be sanctioned for noncooperation solely on the basis of adverse blood test results. *Black v Department of Social Services*, 195 Mich App. 27, 489 N.W.2d 493.

This Administrative Law Judge finds that the Claimant did respond to the Department's requests for information, and while she did not provide as much information as the Department requested, she was not found to be non-cooperative based on any failure to subject herself to the Department's interviews.

Department records indicate that the Department found the Claimant to be non-cooperative on March 27, 2015. At the Claimant's hearing, the Department referenced interviews that occurred after March 27, 2015, to support its determination that the Claimant has refused to reveal information about the absent father of her child. Considering all the evidence and testimony presented on the record as a whole, this Administrative Law Judge finds that the Department has failed to establish that the Claimant has failed to provide all known information about the absent father. This Administrative Law Judge finds that cooperation includes attesting to the lack of information necessary to identify and locate the absent father. The Department provided insufficient evidence that the Claimant has additional information that she refused to provide to the Department. The Claimant has not suggested any good cause reason for not identifying the absent father other than possibly a desire to move on from this period of her life.

This Administrative Law Judge finds that a person might not be able to identify a person after a couple of chance encounters and that a person working at a gas station might not be able to identify one of the numerous automobiles that come and go from her

work location on a daily basis. While it may be prudent to know the identity of a person before consenting to sexual relations, this is not evidence that the Claimant has refused to reveal all known information about the absent father. Perhaps further interviews may reveal details that a skilled investigator could use to identify and locate the absent father, but the evidence presented on the record as a whole does not support a finding that that has occurred here.

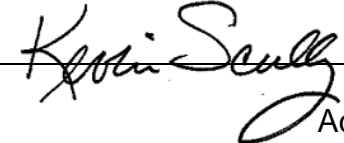
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it sanctioned the Claimant's Family Independence Program (FIP) and Food Assistance Program (FAP) benefits because the evidence does not support a finding of non-cooperation with the Office of Child Support.

### **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. Delete the non-cooperation sanction from the Claimant's benefits case file.
2. Initiate a determination of the Claimant's eligibility for the Food Assistance Program (FAP) as of April 1, 2015.
3. Initiate a determination of the Claimant's eligibility for the Family Independence Program (FIP) as of May 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.

  
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Kevin Scully  
Administrative Law Judge  
for Nick Lyon, Director  
Department of Health and Human Services

Date Signed: **5/22/2015**

Date Mailed: **5/22/2015**

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 48909-8139

cc:



