

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 15-005544
Issue No.: 1007, 3011
Case No.: [REDACTED]
Hearing Date: June 3, 2015
County: Wayne (76)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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, an in-person hearing was held on June 3, 2015, from Detroit, Michigan. Participants included the above-named Claimant. [REDACTED] appeared as Claimant's authorized hearing representative (AHR). Participants on behalf of the Michigan Department of Health and Human Services (MDHHS) included [REDACTED] PATH coordinator, [REDACTED] PATH coordinator, Steven Reimer, specialist, and Lynne Crittendon (via telephone), Office of Child Support (OCS) lead support specialist.

ISSUE

The issue is whether MDHHS properly assessed a child support disqualification resulting in termination of Claimant's Family Independence Program (FIP) eligibility and a reduction of Claimant's Food Assistance Program (FAP) eligibility.

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 was an ongoing FAP and FIP benefit recipient.
2. On [REDACTED], Claimant gave birth to a child.
3. On [REDACTED], Claimant submitted to MDHHS a paternity questionnaire which did not list the name of her recently born child's father.

4. On [REDACTED], MDHHS imposed a child support disqualification against Claimant resulting in a termination of FIP benefits, effective March 2015 (see Exhibits 1-2).
5. On [REDACTED], MDHHS mailed Claimant a Notice of Case Action (Exhibits 3-5) informing Claimant of a reduction of FAP benefits, effective March 2015, based on a previously imposed child support disqualification.
6. On [REDACTED], Claimant requested a hearing to dispute the termination of FIP benefits and reduction in FAP benefits.
7. As of the date of hearing, Claimant has not made reasonable efforts to establish paternity for her child.

CONCLUSIONS OF LAW

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193, and 42 USC 601 to 679c. MDHHS (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10 and 400.57a and Mich Admin Code, R 400.3101 to .3131. MDHHS policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), and Department of Human Services Reference Tables Manual (RFT).

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

Claimant requested a hearing to dispute a termination of FIP eligibility and a reduction in FAP eligibility. It was not disputed that both negative actions occurred following imposition of a child support disqualification due to Claimant's alleged failure to cooperate with establishing paternity for her son.

Concerning FIP and FAP eligibility, 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. BEM 255 (October 2014), p. 1. The support specialist (i.e. OCS) determines cooperation for required support actions. *Id.*, p. 10.

A lead OCS specialist testified that Claimant submitted a paternity questionnaire to MDHHS on [REDACTED]. OCS testimony also indicated that the questionnaire failed to list the name of Claimant's recently born son's father. Based on Claimant's failure to report paternity information, MDHHS imposed a child support disqualification against Claimant on [REDACTED]. Claimant did not dispute any of the OCS testimony.

It was also not disputed that Claimant called OCS on [REDACTED] and reported a name for her child's father. OCS testified that Claimant's reporting did not mean that Claimant was cooperative because the provided name was inadequate to identify Claimant's child's father so that paternity proceedings could be initiated. OCS testimony indicated that 77 persons in the State of Michigan had the name that Claimant reported for her child's father.

Claimant testified that she met her son's father at a bar at which she worked. Claimant testified that she saw her child's father approximately five times, only once outside of the bar. Claimant testified that she knew that her son's father was a mechanic but was unsure of where he worked. Claimant was unable to provide an address or any other information for her child's father. Claimant testified that she quit work and never returned to the bar after she learned that she was pregnant. Claimant testified that she made no attempts to inform her child's father that he impregnated her. During the hearing, Claimant was asked why she never attempted to contact her child's father. Claimant responded that she had no explanation.

If Claimant lied about not knowing any information about her child's father other than his name and occupation, she would have likely fabricated some story about trying to contact her child's father. Claimant's concession that she made no attempt to contact her child's father bolstered her overall credibility. Also, Claimant appeared genuinely emotional during the hearing when discussing her past actions.

Claimant's OCS reporting was sufficient, though presented evidence suggested that Claimant could have reported her child's father's name on a paternity questionnaire. Based on the presented evidence, it is found that Claimant accurately reported paternity information to OCS.

Generally, a client that accurately reports all known paternity information to OCS cannot be considered uncooperative with establishing paternity. In the present case, further consideration is justified.

Claimant has an implied obligation to make reasonable efforts in providing OCS with identifying information that can result in paternity proceedings. A purposely vague definition of "reasonable efforts" would be somewhere between doing nothing and hiring a high-priced private investigator. Claimant's actions in identifying her child's father were essentially nothing. Claimant never returned to the bar where she worked (though she states that it is now closed). Claimant never searched social media. Claimant never made any telephone calls to local mechanic shops to find her child's father's employer. Claimant was unable to provide minimally useful details to OCS concerning the identity

of her child's father (e.g. tattoos, approximate age, vehicle model...). Claimant's lack of efforts in providing useful information to OCS essentially amounted to willful blindness. The lack of efforts are deemed to be a lack of cooperation.

It is found that Claimant failed to make reasonable efforts in identifying her child's paternity. Accordingly, it is found that MDHHS properly terminated Claimant's FIP eligibility and reduced Claimant's FAP eligibility.

It should be noted that this decision does not banish Claimant to a lifetime of FIP and FAP ineligibility. Claimant is not even required to identify her child's father before MDHHS reconsiders ending Claimant's child support disqualification. This decision only requires that Claimant make reasonable efforts to identify her child's father (and to report her efforts to OCS) before MDHHS is obliged to reconsider the imposed disqualification. Claimant is encouraged to again dispute the disqualification if she makes reasonable efforts and MDHHS finds that she is still uncooperative.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly terminated Claimant's FIP eligibility and reduced Claimant's FAP eligibility, effective March 2015. The actions taken by MDHHS are **AFFIRMED**.



Christian Gardocki
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **6/12/2015**

Date Mailed: **6/12/2015**

CG / hw

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:

