

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

IN THE MATTER OF:

██████████
██████████
██████████

Reg. No.: 15-008739
Issue No.: 3001;6001
Case No.: ██████████
Hearing Date: July 01, 2015
County: Wayne-District 55

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

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 three way telephone hearing was held on July 1, 2015, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Health and Human Services (Department) included ██████████, Hearings Facilitator and ██████████, Lead Specialist with the Office of Child Support (OCS).

ISSUE

Did the Department properly process and deny Claimant's applications for Child Development and Care (CDC) and 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 or around May 10, 2013, Claimant was placed in non-cooperation with child support requirements, after the OCS determined that the information she provided regarding the absent parent was insufficient. (Exhibit D)
2. Claimant's children were ongoing recipients of FAP benefits but she was disqualified as a member of her FAP group.
3. Claimant was notified that her FAP case would be closed in April 2015.
4. On March 18, 2015, Claimant submitted an application for CDC and FAP benefits.

5. On March 26, 2015, the Department sent Claimant a Notice of Case Action informing her that the March 8, 2015, application for CDC benefits was denied on the basis that she failed to cooperate with child support requirements. (Exhibit A)
6. On May 8, 2015, Claimant submitted a second application for CDC and FAP benefits.
7. On May 22, 2015, the Department sent Claimant a Notice of Case Action informing her that the May 8, 2015, application for CDC benefits was denied on the basis that she failed to cooperate with child support requirements and that the May 8, 2015, FAP application was denied on the basis that she failed to verify requested information.(Exhibit B)
8. On May 22, 2015, Claimant requested a hearing disputing the denial of her CDC and FAP applications.

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.

The Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, 42 USC 601-619, 670-679c, and 1397-1397m-5; the Child Care and Development Block Grant of 1990, PL 101-508, 42 USC 9858 to 9858q; and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193. The program is implemented by 45 CFR 98.1-99.33. The Department administers the program pursuant to MCL 400.10 and provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001-.5020.

Additionally, the custodial parents 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 she receives assistance, unless a claim of good cause for not cooperating has been granted or is pending. Absent parents are required to support their children. Support includes **all** of the following: child support, medical support and payment for medical care from any third party. BEM 255 (October 2014 and April 2015),

p. 1. A client's cooperation with paternity and obtaining child support is a condition of FAP eligibility. BEM 255, pp. 1, 9-13. Cooperation is required in all phases of the process to establish paternity and obtain support and includes contacting the support specialist when requested and providing all known information about the absent parent, among other things. BEM 255, p 9.

At application, the client has ten days to cooperate with the OCS. The Department will inform the client to contact the OCS by sending a verification checklist (VCL). A disqualification will be imposed at application if the client fails to cooperate on or before the due date of the VCL and the criteria found in BEM 255 is not met. BEM 255, p. 11-12. Any individual required to cooperate who fails to cooperate without good cause may result in group ineligibility or member disqualification for CDC and FAP. BEM 255, pp. 9-14.

Claimant requested a hearing disputing the Department's denial of her CDC and FAP applications. The evidence established that Claimant submitted assistance applications on March 18, 2015, and May 8, 2015.

In this case, the OCS representative testified that contact letters were sent to Claimant on February 5, 2013, and March 14, 2013, instructing her to contact the OCS and provide information concerning the absent parent of her child. A non-cooperation notice was issued to Claimant on May 10, 2013, which was the date the Department imposed her non-cooperation disqualification. (Exhibit D).

Claimant testified that she was previously disqualified as a member of her FAP group but her children continued to receive assistance. Claimant stated that she was notified by the Department that in April 2015, her FAP case would be closed so she submitted a new application for FAP and CDC benefits on March 18, 2015. On March 26, 2015, the Department denied Claimant's CDC application on the basis that she failed to cooperate with child support requirements. Claimant confirmed receiving the Notice of Case Action. (Exhibit A).

There was no evidence presented that the Department processed Claimant's March 18, 2015, FAP application in accordance with BAM 110 and BAM 115, however. (See BAM 110 [July 2014] and BAM 115 [January 2015]). The Department initially testified that on June 11, 2015, it sent a Notice of Case Action to Claimant informing her of the denial of the March 18, 2015, FAP application. Upon further review of the Notice, however, it was discovered that the Notice referenced the denial of a May 8, 2015, FAP application, rather than a March 18, 2015, FAP application. (Exhibit C). A review of the correspondence history in Bridges revealed that there was no eligibility notice issued to Claimant concerning her March 18, 2015, FAP application which remained unexplained by the Department.

Claimant testified and the Department confirmed that a second application for CDC and FAP benefits was submitted on May 8, 2015. On May 22, 2015, the Department denied

Claimant's CDC application based on a failure to cooperate with child support requirements. (Exhibit B). The Notice of Case Action also informs Claimant that for the period May 8, 2015, ongoing, she was denied FAP benefits. The Department testified that the application was denied on the basis that Claimant failed to verify requested information in connection with a VCL that was issued instructing Claimant to contact OCS. However, the Notice of Case Action provided for review was missing the page which references the reason for the FAP application denial. Thus, the Department's testimony that Claimant's May 8, 2015, FAP application was denied on the basis that Claimant failed to verify requested information was not supported by the documentary evidence presented at the hearing. (Exhibit B). In addition, although Claimant confirmed receiving a VCL instructing her to contact OCS, the Department did not explain why Claimant's children would be denied FAP benefits, if the VCL was only associated with contacting the OCS.

At the hearing, the OCS representative testified that it conducted interviews with Claimant on more than one occasion, during which she provided conflicting information concerning the absent parent of her child. The OCS representative stated that from December 2012 to the present time, Claimant has provided the names of four different men who she believed to be the father of her child and that OCS has been unable to locate or identify any of the men based on the information provided by Claimant.

At the hearing, Claimant stated that her child was conceived in February 2012 and that she met the absent father at a liquor store. Claimant stated that she was only with this man a few times and that he provided her with two different names, which she gave to the OCS. Claimant testified that she contacted him via telephone to inform him that she was pregnant and he hung up on her. Claimant stated that she has not spoken to or seen the absent father in three years, as he changed his phone number and moved from where he previously lived. Claimant provided a date of birth and physical description on the record and maintained that she did not have any additional information concerning the absent father and had no way of locating him.

Under the facts presented, the Department and the OCS have failed to establish that Claimant had additional information regarding the father's identity that she failed to disclose, thereby, making her ineligible for CDC and FAP benefits.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it processed and denied Claimant's CDC and FAP applications.

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 non-cooperation sanction/disqualification placed on Claimant's cases;
2. Register and process Claimant's March 18, 2015, and May 8, 2015, CDC and FAP applications to determine her eligibility for CDC and FAP from each application date, ongoing;
3. Issue supplements to Claimant for any FAP benefits that she was entitled to receive but did not from the application dates, ongoing;
4. Issue supplements to Claimant and her CDC provider for any benefits that they were entitled to receive but did not from the application dates, ongoing; and
5. Notify Claimant of its decisions in writing by issuing a Notice of Case Action addressing each application.



Zainab Baydoun
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **7/9/2015**

Date Mailed: **7/9/2015**

ZB / 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]