

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

IN THE MATTER OF:

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██████████
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Reg. No.: 15-008973
Issue No.: 3011
Case No.: ██████████
Hearing Date: August 6, 2015
County: Oakland (3)

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 August 6, 2015, from Southfield, Michigan. Participants included the above-named Claimant. ██████████ appeared as Claimant's authorized hearing representative (AHR). Participants on behalf of the Michigan Department of Health and Human Services (MDHHS) included ██████████ ██████████ manager, and ██████████, assistant prosecutor for ██████████.

ISSUE

The issue is whether MDHHS properly reduced Claimant's Food Assistance Program (FAP) eligibility due to Claimant's failure to cooperate with establishing 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. Claimant was an ongoing FAP benefit recipient.
2. On April 1, 2015, the Oakland County Prosecutor Office mailed Claimant a letter requesting Claimant's response concerning a child support action against Claimant's child's father (see Exhibit 1).
3. On April 15, 2015, the Oakland County Prosecutor Office mailed Claimant a second letter requesting Claimant's response concerning a child support action against Claimant's child's father (see Exhibit 6).

4. As of April 30, 2015, Claimant failed to respond to the written requests for information concerning child support.
5. On April 30, 2015, MDHHS imposed a child support disqualification against Claimant resulting in a reduction of FAP benefits, effective June 2015.
6. On May 27, 2015, Claimant requested a hearing to dispute the reduction in FAP benefits.

CONCLUSIONS OF LAW

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 Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Claimant requested a hearing to dispute a reduction of FAP benefits. MDHHS presented a Notice of Case Action (Exhibits 1-4) which stated that the reason for benefit reduction was a disqualification against Claimant related to failing to cooperate with establishing child support for Claimant's child. Claimant's AHR conceded there were no other disputes concerning Claimant's FAP eligibility.

Concerning 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 (April 2015), p. 1. Cooperation is a condition of eligibility. *Id.*, p. 9. Cooperation is required in all phases of the process to establish paternity and obtain support. *Id.* It includes all of the following (see *Id.*):

- 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 (including but not limited to testifying at hearings or obtaining genetic tests).

MDHHS presented testimony from an Oakland County assistant prosecuting attorney. The assistant prosecuting attorney testified that his office received a referral for child support concerning Claimant. The assistant prosecuting attorney testified that his office sent a letter on April 1, 2015 (see Exhibit 5) to Claimant for the purpose of establishing child support for Claimant's child. The letter requested Claimant's completion of a questionnaire and the return of various documents. The assistant prosecuting attorney testified that his office sent Claimant a second letter on April 15, 2015 (Exhibit 6)

requesting the same information. The second letter also indicated that it would be Claimant's "final notice."

Claimant testimony conceded that she received both letters from the Oakland County Prosecutor's Office. Claimant testimony also conceded that she failed to respond to either letter.

Due to Claimant's failure to respond to requests for her cooperation, the Oakland County Prosecutor Office and MDHHS determined Claimant to be uncooperative with establishing child support. MDHHS presented a letter (Exhibit 7) dated April 30, 2015, which informed Claimant of her non-cooperation status.

Claimant's child was ■ years old at the time that Claimant was contacted by the county prosecutor. No particular evidence explained why the country prosecutor waited until Claimant's child nearly reached adulthood to pursue child support. The delay in pursuing child support was curious, however, it does not lessen a client's obligation to cooperate with establishing child support.

There was also evidence that Claimant had been contacted in the past concerning child support. It was not disputed that whatever contact was made did not result in a child support case. Claimant testimony suggested a previous communication from the county prosecutor's office several years earlier. If Claimant established that she provided information necessary to establish child support shortly before April 2015, Claimant could reasonably contend that she had no obligation to resubmit information in April 2015. A time period of several years is not indicative of a time between contacts that Claimant would be excused from a subsequent failure to provide information.

It was not disputed that Claimant contacted the prosecutor's office on May 6, 2015. Claimant's testimony indicated that she advised the county prosecutor's representative that nothing had changed since her previous contact. The contact made by Claimant was a step toward cooperation; however, Claimant has other obligations than a general report of no change. Claimant provided no statements in writing and failed to sign a complaint and summons (a necessity for a child support case) against her child's father. Thus, Claimant cannot be found to be cooperative based on her statements of May 6, 2015. Based on presented evidence, it is found that MDHHS properly found Claimant to be uncooperative with establishing child support.

For FAP benefits, failure to cooperate without good cause results in disqualification of the individual who failed to cooperate. *Id.*, p. 13. Accordingly, it is found that MDDHS properly disqualified Claimant for purposes of FAP eligibility.

It should be noted that a child support disqualification is not necessarily permanent. During the hearing, Claimant was advised that future cooperation should result in an end to the child support disqualification.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly imposed a child support disqualification against Claimant resulting in a reduction in FAP benefits, effective June 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: **8/7/2015**

Date Mailed: **8/7/2015**

GC/tm

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.

