

**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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Reg. No.: 15-010772
Issue No.: 1000;3011;5000;6011
Case No.: ██████████
Hearing Date: August 13, 2015
County: Wayne-District 31

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 August 13, 2015, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Health and Human Services (Department) included ██████████ ██████████, Eligibility Specialist; ██████████ ██████████, Hearings Facilitator; and ██████████ ██████████, Special Assistant Prosecuting Attorney, Wayne County Prosecuting Attorney's Office.

ISSUE

Did the Department properly determine that Claimant was ineligible for Food Assistance Program (FAP) and Child Development and Care (CDC) benefits on the basis that she failed to cooperate with child support reporting requirements?

Did the Department properly process Claimant's Family Independence Program (FIP) and State Emergency Relief (SER) 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 August 1, 2013, Claimant applied for SER assistance and on August 8, 2013, the Department denied Claimant's SER application. (Exhibit C)
2. Claimant did not submit a subsequent application for SER assistance prior to her hearing request.

3. On December 22, 2014, the Department sent Claimant a Notice of Case Action informing her that her December 2014 FIP application was denied.
4. Claimant was not an ongoing recipient of FIP benefits and Claimant did not submit a subsequent application for FIP benefits prior to her hearing request.
5. On February 27, 2014, the prosecuting attorney's office placed Claimant in noncooperation with child support requirements. (Exhibit D)
6. On an unverified date, Claimant applied for FAP benefits.
7. On March 26, 2015, the Department sent Claimant a Notice of Case Action informing her that effective April 1, 2015, her FAP group size would be reduced to one, as she was determined to be ineligible for FAP on the basis that she failed to cooperate with child support requirements. (Exhibit A)
8. In February 2015, Claimant applied for CDC benefits.
9. On March 26, 2015, the Department sent Claimant a Notice of Case Action informing her that her CDC application was denied on the basis that she failed to cooperate with child support requirements. (Exhibit A)
10. On June 15, 2015, Claimant requested a hearing disputing the Department's actions with respect to her SER, FIP, FAP and CDC 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).

SER/FIP

The State Emergency Relief (SER) program is established by the Social Welfare Act, MCL 400.1-.119b. The SER program is administered by the Department (formerly known as the Department of Human Services) pursuant to MCL 400.10 and Mich Admin Code, R 400.7001-.7049.

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.

Additionally, MAHS may grant a hearing about a denial of an application and/or supplemental payments; reduction in the amount of program benefits or service; suspension or termination of program benefits or service; restrictions under which benefits or services are provided or delay of any action beyond the standards of promptness. BAM 600 (April 2015), pp.4-5. Moreover, BAM 600, p. 6 provides that a request for hearing must be received in the Department local office within 90 days of the date of the written notice of case action.

Claimant requested a hearing disputing the Department's actions with respect to the denial of her SER and FIP applications. The evidence established that Claimant was not an ongoing recipient of SER or FIP benefits and that the only applications submitted prior to the hearing date were in August 2013 for SER and December 2014 for FIP. As referenced above, the Department notified Claimant of the denial of her SER application on August 8, 2013, and the denial of her FIP application on December 22, 2014.

Claimant did not request a hearing to dispute the Department's actions until June 15, 2015. Thus, Claimant's hearing request with respect to the SER program and FIP was not timely filed within ninety days of the written notices sent to her and is, therefore, **DISMISSED** for lack of jurisdiction.

FAP/CDC

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), 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, providing all known information about the absent parent, appearing at the office of the prosecuting attorney when requested and taking any actions needed to establish paternity and obtain child support (including but not limited to testifying at hearings or obtaining genetic tests). BEM 255, p 9. 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.

In this case, ██████████ testified that Claimant was placed in noncooperation with child support requirements after failing to appear for two genetic testing appointments and failing to show cause as to why she failed to appear for the genetic testing appointments. ██████████ stated that Claimant's paternity case was reinstated in May 2015 and that Claimant, the child and the alleged father are scheduled for a genetic testing date for September 1, 2015. (Exhibit D). ██████████ presented documents in support of her case presentation which included Orders for Genetic Tests, Proofs of Service, and Notices of Hearing, among other things. (Exhibit D). As of the hearing date, Claimant remained in non-cooperation with child support requirements, as she still had not obtained the required genetic tests as ordered and there was no good cause granted for her non-cooperation.

Claimant initially did not provide any explanation for her failure to cooperate with the prosecuting attorney and her failure to obtain the required genetic tests. Later in the hearing, Claimant testified that the father of her child is dangerous and that he was previously in prison. Claimant testified that he has been physically abusive towards her in the past and that he has broken her car windows. Claimant testified that she fears for her safety and her child's safety. Although Claimant stated that she has previously notified the Department, the Office of Child Support and the Prosecuting Attorney's office of this information, the Department representatives and ██████████ stated that the first time they received this information was during the hearing.

BEM 255 provides that the Department is to inform the individual of the right to claim good cause for not cooperating with child support requirements. The Department is to give the client a DHS 2168, Claim of Good Cause-Child Support at application, before adding a member, and when a client claims good cause. Cases in which there is a danger of physical or emotional harm to the child or client are considered to be one of the types of good cause reasons that must be verified and evaluated by the Department pursuant to the policies and procedures found in BEM 255, pp. 2-7. A claim for good cause may be made at any time. BEM 255, p. 4.

In this case, the Department stated that Claimant was not informed of the right to claim good cause and there was no evidence presented that the Department provided her with a DHS 2168, Claim of Good Cause-Child Support to be completed so that her claim of good cause could be determined and verified.

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 failed to inform Claimant of the right to claim good cause for her noncooperation with child support requirements.

DECISION AND ORDER

Accordingly, the hearing request with respect to SER and FIP is **DISMISSED** and the Department's CDC and FAP decisions are **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. Provide Claimant with the DHS 2168, Claim of Good Cause-Child Support form and make a good cause determination in accordance with BEM 255;
2. If good cause for Claimant's noncooperation with child support is established/approved, register and process the February 2015 CDC application to determine her eligibility for CDC and supplement Claimant for any missed CDC benefits in accordance with Department policy;
3. If good cause for Claimant's noncooperation with child support is established/approved, recalculate Claimant's FAP budget for April 1, 2015, ongoing, to include her as an eligible group member; and
4. Issue supplements to Claimant for FAP benefits from April 1, 2015, ongoing, in accordance with Department policy; and
5. Notify Claimant in writing of its decision.



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

Date Signed: **8/21/2015**

Date Mailed: **8/21/2015**

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 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

