

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

IN THE MATTER OF:

██████████
████████████████████
████████████████████

Reg. No.: 15-011925
Issue No.: 3011
Case No.: ██████████
Hearing Date: August 19, 2015
County: Wayne (55)

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, a telephone hearing was held on August 19, 2015, from Detroit, Michigan. Participants included the above-named Claimant. Participants on behalf of the Michigan Department of Health and Human Services (MDHHS) included ██████████, specialist, and ██████████, lead worker with the Office of Child Support (OCS).

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 December 3, 2015, MDHHS mailed Claimant a First Customer Contact Letter (Exhibits 1-2) informing Claimant of a need to call OCS for the purpose of providing information about Claimant's youngest child's biological father.
3. On January 3, 2015, MDHS mailed Claimant a Final Customer Contact Letter (Exhibits 3-4) which again requested information about Claimant's youngest child's biological father.
4. On January 29, 2015, MDHHS imposed a child support disqualification against Claimant resulting in a reduction of FAP benefits, effective ██████████.

5. As of January 29, 2015, Claimant failed to respond to either written request for information of Claimant's youngest child's paternity.
6. On February 3, 2015, Claimant called OCS and reported information insufficient to identify her child's father.
7. MDHHS did not alter the previously imposed child support disqualification as the result of Claimant's phone call.
8. On May 5, 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, effective April 2015. MDHHS did not present a written notice verifying the reason for the FAP benefit reduction. It was not disputed that the FAP reduction was caused by a child support disqualification. Claimant testimony conceded that she did not wish to dispute any aspect of the FAP determination from April 2015 other than the disqualification of child support.

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).

An OCS lead worker testified that Claimant was deemed to be uncooperative with OCS due to a failure to provide sufficient information to identify the father of Claimant's youngest child. The purpose of the letter was so that OCS could initiate a child support case on behalf of Claimant.

It was not disputed that Claimant contacted OCS on February 3, 2015. It was not disputed that Claimant provided OCS with two pieces of information, a possible first name of her child's father ("Mike"), and that he lives out of state (so Claimant last heard). Unsurprisingly, Claimant's information about her child's father was woefully inadequate for purposes of identifying the father so that a child support case could be initiated.

It must be emphasized that a failure to provide useful information to identify a child's father is not, by itself, a basis to find that a client is uncooperative. If a client truly has no information to provide about a child's father, then the client cannot be said to be uncooperative, unless there is evidence of some other failure to cooperate.

Claimant testified that she was intoxicated at a graduation party when her child was conceived. Claimant testified that the party took place at the house owned by a friend of her godmother. Claimant testimony implied she did not see her child's father either before or after the child was conceived. Claimant testified that she once inquired from her godmother about information about her child's father. Claimant testified that her godmother was a drug addict who was unable to provide any useful information in identifying the father.

Claimant testified that she gave her youngest child the last name of the father of her oldest child as he agreed to raise the child as his own. Claimant and MDHHS testimony indicated that the father of Claimant's older child took a DNA test and was found not to be the biological father of Claimant's youngest child. Claimant testified that a second possible father of her youngest child was also ruled out by a DNA test.

Claimant's testimony explaining why she was unable to provide detailed information of her child's paternity was sufficiently credible and consistent with presented facts. MDHHS did not present any information to rebut Claimant's testimony and confirmed Claimant's testimony concerning DNA testing.

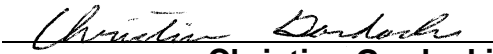
It is found that Claimant reported to OCS as much information as she had about her child's father. Accordingly, Claimant was not uncooperative with obtaining child support and it is found that MDHHS improperly imposed a child support disqualification against Claimant.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that MDDHS improperly determined Claimant's FAP eligibility. It is ordered that MDDHS perform the following actions:

- (1) redetermine Claimant's FAP benefit eligibility, effective [REDACTED] subject to the finding that Claimant was compliant with establishing child support;
- (2) supplement Claimant for any benefits not issued as a result of the improper MDDHS determination; and
- (3) remove any relevant disqualification from Claimant's disqualification history.

The actions taken by DHS are **REVERSED**.


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

Date Signed: **8/19/2015**

Date Mailed: **8/20/2015**

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 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:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]