

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

**IN THE MATTER OF:**

[REDACTED]

MAHS Reg. No.: 15-015166  
Issue No.: 1011  
Agency Case No.: [REDACTED]  
Hearing Date: October 14, 2015  
County: WAYNE-DISTRICT 18

**ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris**

**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 October 14, 2015, from Detroit, Michigan. Participants on behalf of Claimant included the Claimant. Participants on behalf of the Department of Health and Human Services (Department) included [REDACTED], Hearing Facilitator and ES. [REDACTED], Child Support Lead Specialist also appeared on behalf of the Department as a witness.

**ISSUE**

Did the Claimant timely request a hearing?

Did the Department properly reduce the Claimant's Food Assistance (FAP) benefits for noncooperation with the Office of Child Support (OCS)?

**FINDINGS OF FACT**

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. The Department issued a Notice of Case Action dated [REDACTED], reducing the Claimant's FAP benefits as a result of the Claimant being found in noncooperation with the OCS. The Department removed the Claimant from her FAP group, thereby reducing her FAP benefits effective July 1, 2015. Exhibit A
2. The Claimant was placed in noncooperation by the Office of Child Support on [REDACTED].

3. The Department produced no Notice of Case Action which sanctioned the Claimant for noncooperation with OCS after the Noncooperation Notice was issued by OCS.
4. The Claimant had requested a prior hearing but did not attend the hearing and an Order of Dismissal was issued by C. Adam Purnell, Administrative Law Judge/Manager, on [REDACTED] dismissing the Claimant's hearing request for failure to appear at the hearing.
5. The Claimant requested a hearing on [REDACTED] protesting the reduction of her FAP benefits due to noncooperation with the OCS.

### **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.

In this case, the Claimant requested a hearing regarding a Notice of Case Action issued by the Department on [REDACTED], reducing her FAP benefits due to noncooperation with the Office of Child Support. Exhibit A. Although the OCS had issued a Noncooperation Notice on [REDACTED], the Department presented no evidence of a prior reduction of FAP benefits or that FAP benefits were reduced and a sanction imposed as a result of the OCS Notice of Noncompliance. There was evidence that a hearing scheduled for [REDACTED], pursuant to a prior hearing request, was dismissed due to Claimant's failure to appear. No prior hearing request documentation was presented, nor was there any Notice of Case Action presented by the Department that might shed light on the prior hearing or any action taken by the Department as a result of the OCS [REDACTED] Noncooperation Notice. Thus, based on the evidence produced at the hearing, it could not be determined whether the present hearing request involved and concerned the dismissed hearing. Based upon the evidence, the Department failed to demonstrate that the current hearing request was untimely.

In the current hearing request, the Claimant asserts that she had advised the OCS that she did not know who the father of her child was in August 2014. The Claimant credibly testified that at the time she became pregnant in 1999 she was a crack cocaine addict and could not identify any individual she may have had sex with who could be the father of her child. The Claimant was married at the time and her then husband and she were divorced after the child was born. The Claimant's former spouse died in October 2013. It was concluded by the Claimant, that because her child was of mixed race (her child is African American), her ex-husband (who is Caucasian) could not be the father. The Claimant advised the OCS that her former husband was not the father of her child, providing this information in August 2014. The Claimant also thereafter sent a letter to OCS on [REDACTED], stating that she did not know who the father of her child was.

At the hearing the Claimant credibly testified to the facts previously given to the OCS in August 2014 and admitted to being on crack at the time she conceived her child. Although the Claimant had nick names of the potential sexual partners, she has had no contact with any of the individuals she formerly did crack with since the birth of her child, and has been clean since then. Her child was born in 2000 and is now 14 years old.

Based upon the evidence presented and the testimony of the Claimant, it is determined that the Claimant did not withhold any information from OCS, instead the OCS found noncooperation because the Claimant did not provide sufficient evidence to identify a potential father. Clearly under these facts it is determined that the Claimant cooperated to the best of her ability and could not provide any further information due to the fact that at the time she was drug addicted and smoking crack. Under these facts it is determined that the Claimant did not fail to cooperate with the OCS and based upon her credible testimony, the Claimant has no information which would lead to the identity of the putative father of her child. Thus, Claimant provided all the information available to her to OCS as to the paternity of her child.

Cooperation is required in all phases of the process to establish paternity and obtain support. It includes **all** of the following:

- 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). BEM 255 (April 1, 2015) p. 9

Cooperation is assumed until negative action is applied as a result of non-cooperation being entered. The non-cooperation continues until a comply date is entered by the primary support specialist or cooperation is no longer an eligibility factor. The comply date will be populated in the absent parent logical unit of work and the mandatory member will be added to active MA and FAP EDG the same night automatically; see **Removing A Support Disqualification** in this item. p.10.

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 found the Claimant in noncooperation with the OCS and imposed a sanction removing Claimant from her FAP group.

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 the Claimant's request for hearing was untimely.

### **DECISION AND ORDER**

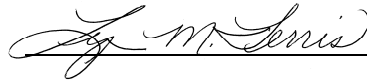
Accordingly, the Department's decision is

**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. The Department shall remove the noncooperation sanction it imposed on [REDACTED], [REDACTED] removing the Claimant from her FAP group and reducing Claimant's FAP benefits due to noncooperation with OCS.
2. The Department shall issue a FAP supplement to the Claimant if any is due and

which the Claimant is otherwise eligible to receive in accordance with Department policy.



**Lynn M. Ferris**  
Administrative Law Judge  
for Nick Lyon, Director  
Department of Health and Human Services

Date Signed: **10/15/2015**

Date Mailed: **10/15/2015**

LMF / 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:

