

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

IN THE MATTER OF:



MAHS Reg. No.: 15-016353
Issue No.: 3011
Agency Case No.: [REDACTED]
Hearing Date: October 22, 2015
County: LIVINGSTON

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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, telephone hearing was held on October 22, 2015, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED]. [REDACTED] (Eligibility Specialist) represented the Department of Health and Human Services (Department). Witnesses on behalf of the Department included [REDACTED], Lead Worker with the Office of Child Support.

ISSUE

Did the Department of Health and Human Services (Department) properly sanction the Claimant's Food Assistance Program (FAP) benefits for noncooperation with the Office of 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. The Claimant is an ongoing Food Assistance Program (FAP) recipient.
2. On April 16, 2015, the Department requested that the Claimant provide information necessary to identify and locate the absent parent of her child.
3. On June 11, 2015, the Department determined that the Claimant was noncooperative with the Office of Child Support.
4. On July 1, 2015, the Department disqualified the Claimant from her Food Assistance Program (FAP) benefit group for noncooperation with the Office of Child Support.

5. On September 3, 2015, the Department received the Claimant's request for a hearing protesting the noncooperation sanction on her Food Assistance Program (FAP) 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).

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.

Families are strengthened when children's needs are met. Parents have a responsibility to meet their children's needs by providing support and/or cooperating with the department, including the Office of Child Support (OCS), the Friend of the Court (FOC) and the prosecuting attorney to establish paternity and/or obtain support from an absent parent. 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. Failure to cooperate without good cause results in disqualification. Disqualification includes member removal, as well as denial or closure of program benefits. Department of Human Services Bridges Eligibility Manual (BEM) 255 (April 1, 2015), pp 1-2.

The Claimant was an ongoing FAP recipient as a group of two on April 16, 2015, when the Department requested that she provide information necessary to identify and locate the absent parent of her child. The Claimant allowed herself to be interviewed by the Office of Child Support, but failed to reveal sufficient evidence about the father. On June 11, 2015, the Department determined that the Claimant was noncooperative with the Office of Child Support.

The Department's witness testified that the Claimant responded to inquiries for information about the absent parent, but that she claimed to know nothing about the absent father except that they had exchanged text messages for approximately a month before her child was conceived. The Claimant also reported to the Department that the cellular phone number that she had contacted the absent father with in the past was no longer a valid number.

The Department's witness had no personal knowledge of the interviews with the Claimant but relied on the regular business records of the Department's attempts to

locate the absent father. The Department's witness testified that he found it to be unlikely that a person could not remember the location where consent to sexual relations had been given.

The Department's witness testified that case notes indicate that the Claimant identified the absent father as "██████" on July 7, 2015, but this was after the Department had already found her to be noncooperative with the Office of Child Support.

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, p 9.

The Department is not disputing that the Claimant contacted the support specialist with the Office of Child Support when requested. Nothing was presented on the record that the Claimant was asked to appear at the prosecuting attorney's office or submit to a paternity test. Therefore, the Department is basing its noncooperation sanction on its determination that the Claimant failed to provide all known information about the absent parent.

The Claimant testified that she answered all questions presented by the Office of Child Support to the best of her ability, but that she is unable to identify or locate the absent parent.

The fact that the Claimant revealed minimal information about the absent parent after the Department informed her that it would sanction her benefits suggests she may have additional information that has not been revealed. But this is not conclusive proof that the Claimant does have additional information.

Furthermore, this Administrative Law Judge finds that the Department has failed to present sufficient evidence to establish that on June 11, 2015, the Claimant was refusing to reveal all known information about the absent parent. The fact that she revealed additional information later is not relevant to the Department's determination at the time a noncooperation sanction was entered into her benefit case file.

The Claimant described a scenario where she met an individual on the internet and consented to sexual relations at a hotel but did not maintain a social relationship. The Claimant testified that the one link to the absent father, his cellular telephone number, is no longer in service.

The Department's policy requires that a FAP recipient provide all known information about the absent parent. This Administrative Law Judge finds that a mother who honestly asserts, under oath, that she has no further information regarding the child's father cannot be found to be noncooperative absent evidence suggesting she is refusing to reveal all known information about the absent parent. In this case, the Department failed to present evidence supporting its determination on June 11, 2015, that the Claimant has information about the absent parent that she is refusing to reveal.

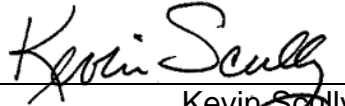
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it sanctioned the Claimant's Food Assistance Program (FAP) benefits for noncooperation with the Office of Child Support.

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. Delete the noncooperation sanction from the Claimant's benefits case file.
2. Initiate a determination of the Claimant's eligibility for the Food Assistance Program (FAP) as of July 1, 2015.
3. Provide the Claimant with a Notice of Case Action (DHS-1605) describing the Department's revised eligibility determination.
4. Issue the Claimant any retroactive benefits she may be eligible to receive, if any.



Kevin Scully
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **10/27/2015**

Date Mailed: **10/27/2015**

KS/■

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:

