

**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.: 15-019596
Issue No.: 3007
Agency Case No.: [REDACTED]
Hearing Date: December 22, 2015
County: Clare

ADMINISTRATIVE LAW JUDGE: Gary Heisler

HEARING DECISION

Following Petitioner'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 telephone hearing was held on December 22, 2015, from Lansing, Michigan. The Claimant was represented by herself and her mother [REDACTED]. The Department of Health and Human Services (Department) was represented by Office of Child Support Lead Worker [REDACTED] and Eligibility Specialist [REDACTED].

ISSUE

Did the Department properly remove Claimant from her Food Assistance Program (FAP) benefit group beginning November 1, 2015 for non-cooperation 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. Claimant was an ongoing recipient of Food Assistance Program (FAP) benefits.
2. On September 18, 2015, the Office of Child Support placed Claimant in non-cooperation status.
3. On September 21, 2015, Claimant was sent a Notice of Case Action (DHS-1605) which stated she was removed from her Food Assistance Program (FAP) benefit group due to non-cooperation with the Office of Child Support.
4. On October 21, 2015, Claimant submitted a hearing request.

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.

The non-cooperation is in regard to Claimant's oldest child, [REDACTED] who was born February 14, 2012. Claimant is currently married with two additional children in her family that were fathered by her husband. During this hearing Claimant and her mother provided credible testimony regarding Claimant's disability (low IQ), mental health issues, and her circumstances during the time that [REDACTED] was conceived. The basics of that time period include that Claimant: had recently turned 18 years old; was expelled from an independent living home; was jumping from location to location every few weeks to meet new contacts she made on the internet; was no longer taking prescribed medications for her mental health conditions; was engaging in sexual relationships with numerous partners; and became pregnant in one of two or three "stays" in Nevada.

The Office of Child Support determined Claimant was non-cooperative because she reported that she does not know the identity of [REDACTED] father. It is not uncommon for assistance recipients to allege that they do not know who fathered their child. However, it is uncommon for a conception under scrutiny to have occurred under the circumstances shown in this case. Based on the totality of evidence in this record, Claimant's assertion that she does not know the identity of [REDACTED] father is found credible. Therefore, her inability to provide specific identifying information is NOT a failure to cooperate.

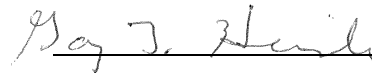
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it removed Claimant from her Food Assistance Program (FAP) benefit group beginning November 1, 2015 for non-cooperation with the Office of Child Support.

DECISION AND ORDER

Accordingly, the Department's decision is **REVERSED**.

THE DEPARTMENT, INCLUDING THE OFFICE OF CHILD SUPPORT, 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. Remove Claimant's non-cooperation status.
2. Reinstate Claimant to her Food Assistance Program (FAP) benefit group and supplement her any Food Assistance Program (FAP) benefits she did not receive due to this action.



Gary Heisler
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Mailed: **12/23/2015**

GH/las

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:

