

**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.: 15-018488
Issue No.: 3011
Agency Case No.: [REDACTED]
Hearing Date: November 25, 2015
County: WAYNE-DISTRICT 41

ADMINISTRATIVE LAW JUDGE: Robert J. Chavez

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 November 25, 2015, from Detroit, Michigan. The Petitioner appeared pro se. The Department of Health and Human Services (Department) was represented by [REDACTED] [REDACTED] Hearings Facilitator, and [REDACTED] of the [REDACTED].

ISSUE

Did the Department properly levy a noncooperation sanction on Petitioner's benefit case for failing to comply with the Office of Child Support (OCS)?

Did the Department properly reduce Petitioner's Food Assistance Program (FAP) benefits due to a noncooperation sanction?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material, and substantial evidence on the whole record, including testimony of witnesses, finds as material fact:

1. Petitioner was a FAP recipient.
2. On June 28, 2013, a noncooperation sanction was levied on Petitioner's benefit case, ostensibly for a failure to respond to contact letters from the Office of Child Support (OCS) with regard to a non-custodial parent (NCP).
3. No evidence was submitted to support the sanction.

4. On November 1, 2015, Petitioner FAP benefits were reduced on the basis of the noncooperation sanction.
5. In September, 2015, the Department sent Petitioner/Petitioner's Authorized Representative (AR) notice of its action.
8. On September 29, 2015, 2015, Petitioner/Petitioner's Authorized Hearing Representative (AHR) filed a hearing request, protesting the Department's action.

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), and Department of Health and Human Services Reference Tables Manual (RFT).

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.

With regards to Petitioner's FAP case, Petitioner's FAP benefits were reduced because of a sanction levied by the Office of Child Support (OCS) on June 28, 2013. OCS has alleged that because Petitioner failed to respond to contact letters.

However, the Department has failed to provide any documentary evidence supporting the reason for a sanction, the propriety of the sanction, and whether the sanction should have continued. While this lack of evidence may be a result of one arm of the Department failing to submit the hearing packet from OCS, the undersigned is not responsible for how the Department puts together its cases and cannot overlook the lack of proper foundational evidence.

In the current case, the Department has failed to show, with proper documentation that the sanction levied in 2013 was proper, and as such, must order the sanction removed for lack of evidence.

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 levied a child support sanction and reduced Petitioner's FAP benefits.

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. Remove all child support noncooperation sanctions levied against the Petitioner retroactive to June 28, 2013.
2. Restore Petitioner's FAP benefits retroactive to the date of negative action, November 1, 2015.



Robert J. Chavez
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **12/1/2015**

Date Mailed: **12/1/2015**

RJC/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 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:

