

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

IN THE MATTER OF:



MAHS Reg. No.: 15-021238
Issue No.: 1011, 3011
Agency Case No.: [REDACTED]
Hearing Date: January 13, 2016
County: GENESEE-UNION ST

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 January 13, 2016, from Lansing, Michigan. The Claimant was represented by herself and her mother. The Department of Health and Human Services (Department) was represented by Hearing Facilitator [REDACTED] and Lead Child Support Specialist [REDACTED].

ISSUE

Did the Department properly sanction Claimant's Family Independence Program (FIP) and Food Assistance Program (FAP) for failure to cooperate 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. On July 22, 2015, Claimant was sent a Notice of Case Action (DHS-1605) which stated her Family Independence Program (FIP) would close on September 1, 2015.
2. On August 6, 2015, Claimant submitted a hearing request.
3. On August 11, 2015, the local office sent a copy of Claimant's hearing request to the Office of Child Support.
4. On August 21, 2015, Claimant participated in a pre-hearing conference and asserted good cause for the non-cooperation. Claimant signed a Hearing Request

Withdrawal In-Person (DHS-18-M) based on the Department's removal of the non-cooperation for good cause.

5. On September 28, 2015, the Department removed the good cause for non-compliance from Claimant's case.
6. On November 9, 2015, Claimant submitted another hearing request for closure of her Family Independence Program (FIP).
7. On November 17, 2015, the local office sent notice of Claimant's hearing request to the Office of Child Support.
8. During this hearing the Office of Child Support representative testified that their system shows that Claimant is in compliance.

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 Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Department of Human Services) administers FIP pursuant to 45 CFR 233-260, MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3101-.3131.

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.

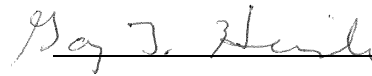
The evidence submitted by the Department is contradictory. The Office of Child Support testified that their system shows Claimant is in compliance. The local office asserts that Claimant is in non-cooperation. The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and 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 sanctioned Claimant's Family Independence Program (FIP) and Food Assistance Program (FAP) for failure to cooperate 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. Remove the record of non-cooperation from Claimant's records at both the Office of Child Support and local office.
2. Reinstate Claimant's Family Independence Program (FIP) and Food Assistance Program (FAP).
3. Supplement Claimant any Family Independence Program (FIP) and Food Assistance Program (FAP) benefits she was otherwise eligible for but did not receive due to this unsupported action.
4. Process Claimant's Family Independence Program (FIP) and Food Assistance Program (FAP) in accordance with Department policy.



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

Date Mailed: **1/22/2016**

GH/nr

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:

