

**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.: 15-021259
Issue No.: 3011
Agency Case No.: [REDACTED]
Hearing Date: January 07, 2016
County: WAYNE-DISTRICT
41 (FORT WAYNE)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 three-way telephone hearing was held on January 7, 2016, from Detroit, Michigan. The Petitioner was represented by the Petitioner. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearing Liaison. [REDACTED], Lead Support Specialist from the Office of Child Support (OCS), appeared as a witness.

ISSUE

Did the Department properly remove the Petitioner from her Food Assistance Program (FAP) case due to 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 Petitioner was an ongoing recipient of FAP benefits.
2. The Department issued a Notice of Case Action dated October 15, 2015, which approved the Petitioner for FAP benefits in the amount of \$ [REDACTED]. The Department had removed the Petitioner from the FAP group in April 2015 for noncooperation with the OCS. Exhibit A.
3. The Petitioner had been removed from her FAP group sometime in April 2015 after the OCS said she was in noncooperation with the OCS.

4. The Petitioner became pregnant [REDACTED] years ago while living in [REDACTED], [REDACTED]. The OCS had originally investigated this matter in 2007 and found the Petitioner in cooperation on June 11, 2007.
5. The OCS had originally investigated the paternity of the Petitioner's son in 2007 and did not find noncooperation and did not follow up on the matter in 2008, and her OCS case closed. The OCS found Petitioner in cooperation in 2007. At the time, the Petitioner provided the name of the father and two birth dates. The Petitioner was [REDACTED] years of age at the time she conceived her son.
6. The Petitioner requested a hearing on November 2, 2015, protesting the Department's actions removing her from her FAP group.

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 OCS found the Petitioner in noncooperation with OCS sometime in April 2015. Petitioner filed a Hearing Request regarding her noncooperation status with the OCS after she was approved for FAP benefits and continued to not be included as an FAP group member due to her ongoing noncooperation status. The Department issued a Notice of Case action on October 15, 2015, approving FAP benefits for two persons (her children). Exhibit A.

At the time of the hearing, the Petitioner's son was [REDACTED] years of age. Apparently, the Petitioner had contact with the OCS as early as 2007, at which time, she was found to be in cooperation because she had provided information to the Department. In 2008, further inquiry was made by OCS; but no noncooperation was placed on this case until sometime in April 2015. At the time of the conception of her child, the Petitioner was [REDACTED] years of age and was living in [REDACTED], for the summer. She credibly testified that she has never returned to [REDACTED], at any time. While the Petitioner did have some information about the alleged father from [REDACTED] she lost contact with the alleged father when her [REDACTED] page was hacked, and she had to get a new page. The Petitioner has provided a name, and two birth dates that did not turn up information that allowed the Department to identify a particular individual with the name provided by Petitioner and either of the birth dates. Overall, the Petitioner's testimony was credible; and there is no further information that she could provide at this

time regarding the whereabouts of the alleged father. Unfortunately, because the OCS did not follow up on the case, [REDACTED] years have passed with no further inquiry from OCS. The fact that the Petitioner did not provide information leading to the identification of the father in this case does not mean that she did not cooperate. Department policy provides:

FIP, CDC Income Eligible, MA and FAP

Cooperation is a condition of eligibility. The following individuals who receive assistance on behalf of a child are required to cooperate in establishing paternity and obtaining support, unless good cause has been granted or is pending:

- Grantee (head of household) and spouse.
- Specified relative/individual acting as a parent and spouse.
- Parent of the child for whom paternity and/or support action is required.

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

FAP

Failure to cooperate without good cause results in disqualification of the individual who failed to cooperate. The individual and his/her needs are removed from the FAP EDG for a minimum of one month. The remaining eligible group members will receive benefits. BEM 255, p. 14

FAP only

Disqualified member is returned to the eligible group the month after cooperation or after serving the one-month disqualification, whichever is later. BEM 255, p.15.

Based upon the evidence presented at the hearing and the credible testimony of the Petitioner that she provided all known information about the absent parent, it is determined that the Petitioner did not withhold information, nor did she fail to cooperate given the facts of this case and the Department's initial finding of cooperation on June 11, 2007, and failure to follow up thereafter resulting in closure of the OCS case for almost [REDACTED] years.

Thus, it is determined as of the date of this Hearing Decision that the Petitioner is in cooperation as she has no further information that she can provide to the Department.

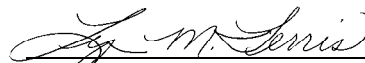
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it calculated the Petitioner's FAP benefits for November 2015 ongoing.

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 restore the Petitioner as an FAP group member in accordance with Department policy and this Decision finding the Petitioner in cooperation as of the Hearing Decision date.
2. The Department shall issue an FAP supplement if the Petitioner is otherwise eligible in accordance with Department policy.



Lynn M. Ferris

Administrative Law Judge
for Nick Lyon, Director

Department of Health and Human Services

Date Mailed: **1/13/2016**

LMF/jaf

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:

