

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

IN THE MATTER OF:



MAHS Reg. No.: 15-024378
Issue No.: 3011
Agency Case No.: [REDACTED]
Hearing Date: February 18, 2016
County: Ingham

ADMINISTRATIVE LAW JUDGE: Vicki Armstrong

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; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on February 18, 2016, from Lansing, Michigan. Claimant personally appeared and testified. The Department was represented by Hearing Facilitator [REDACTED] and Office of Child Support Lead Worker [REDACTED].

ISSUE

Did the Department properly decrease Claimant's Food Assistance Program (FAP) benefits based on 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. On November 25, 2015, the Office of Child Support found Claimant uncooperative for failure to provide identifying, confirmable information about the absent parent of her child. (Dept Exh. A, p 2).
2. On December 14, 2015, the Department mailed Claimant of Notice of Case Action informing her that her FAP benefits were being decreased from a group of 3 to \$ [REDACTED] for a group of 2, based on her non-cooperation with the Office of Child Support. (Dept Exh. A, pp 5-8).
3. On December 7, 2015, the Department received Claimant's Request for Hearing, contesting the Department's actions. (Dept Exh. A, pp 2-3).

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 Department's philosophy is that families are strengthened when children's needs are met. BEM 255, p 1 (4/1/2015). 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. BEM 255, p 1.

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. BEM 255, p 1. Absent parents are required to support their children. BEM 255, p 1. Support includes child support, medical support, and payment for medical care from any third party. BEM 255, p 1. For purposes of this item, a parent who does not live with the child due solely to the parent's active duty in a uniformed service of the U.S. is considered to be living in the child's home. BEM 255, p 1.

Failure to cooperate without good cause results in disqualification. BEM 255, p 2. Disqualification includes member removal, as well as denial or closure of program benefits, depending on the type of assistance. BEM 255, p 2. However, a pregnant woman who fails to cooperate may still be eligible for Medicaid. BEM 255, p 2.

Exceptions to the cooperation requirement are allowed for all child support actions except when the recipient fails to return assigned child support payments received after the support certification effective date. BEM 255, p 2. Good cause is granted only if requiring cooperation/support action is against the child's best interests, and there is a specific good cause reason. BEM 255, p 3.

There are two types of good cause:

1. Cases in which establishing paternity/securing support would harm the child. Cooperation/support actions are not required in any of the following circumstances:
 - The child was conceived due to incest or forcible rape. BEM 255, p 3.
 - Legal proceedings for the adoption of the child are pending before a court.
 - The individual is currently receiving counseling from a licensed social agency to decide if the child should be released for adoption, and the counseling has not gone on for more than three months. BEM 255, p 4.
2. Cases in which there is danger of physical or emotional harm to the child or client. Physical or emotional harm may result if the client or child has been subject to or is in danger of:
 - Physical acts that resulted in, or threatened to result in, physical injury.
 - Sexual abuse.
 - Sexual activity involving a dependent child.
 - Being forced as the caretaker relative of a dependent child to engage in non-consensual sexual acts or activities.
 - Threats of, or attempts at, physical or sexual abuse.
 - Mental abuse.
 - Neglect or deprivation of medical care. BEM 255, p 4.

Cooperation is a condition of eligibility. BEM 255, p 9. The grantee (head of household) and spouse, the specified relative/individual acting as a parent and spouse, and the parent of the child for whom paternity and/or support action is required, are required to cooperate in establishing paternity and obtaining support, unless good cause has been granted or is pending. BEM 255, p 9. Cooperation is required in all phases of the process to establish paternity and obtain support and 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 applies the support disqualification when a begin date of non-cooperation is entered and there is no pending or approved good cause. BEN 255, p 11. The disqualification is not imposed if any of the following occur on or before the timely hearing request date:

- Office of Child Support records the comply date.
- The case closes for another reason.
- The non-cooperative client leaves the group.
- Support/paternity action is no longer a factor in the child's eligibility (for example, the child leaves the group).
- Client cooperates with the requirement to return assigned support payments to DHS and the support is certified.
- Client requests administrative hearing. BEM 255, p 11.

In this case, Claimant testified she had a one night stand with a light skinned African American in his early to mid-thirties. He was approximately 5'6" and his head was shaved. She had been at [REDACTED] in Lansing when she met him and they drove to her place in his Impala. She stated she had too much to drink and did not remember his name or anything else about that night. She testified that she had not seen him since.

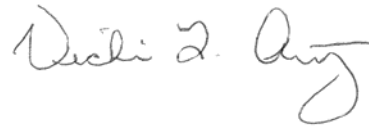
In response to questioning by Lead Worker [REDACTED], Claimant stated that when she went to pre-natal care and when signing the birth certificate, she indicated that the birth father was unknown. Lead Worker [REDACTED] explained that if Claimant could supply proof from the doctor's office that showed Claimant had listed the paternal father as unknown, she would reconsider Claimant's non-cooperation status. Claimant agreed to do so after the hearing.

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. Upon receipt of medical documentation from Claimant satisfying the Office of Child Support, the Office of Child Support will redetermine Claimant's non-cooperation status.
2. The Office of Child Support shall issue Claimant a copy of results of the redetermination of Claimant's non-cooperation status.



Vicki Armstrong
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Mailed: **2/22/2016**

VA/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:

