

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

IN THE MATTER OF:

██████████
██████████
██████████

MAHS Reg. No.: 15-023268
Issue No.: 1011;3011
Agency Case No.: ██████████
Hearing Date: February 01, 2016
County: Wayne-District 57 (Conner)

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

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 February 1, 2016, from Detroit, Michigan. Petitioner appeared for the hearing and represented herself. The Department was represented by ██████████, Family Independence Manager. ██████████, Lead Support Specialist represented the Office of Child Support (OCS).

ISSUE

Did the Department properly deny Petitioner's application for Family Independence Program (FIP) benefits and determine that she was ineligible for Food Assistance Program (FAP) benefits on the basis that she failed to cooperate with child support requirements?

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, 2014, and December 27, 2014, the OCS sent Petitioner Contact Letters instructing her to contact OCS and provide information on the absent father of her child. (Exhibit D, pp. 1-4)
2. On January 20, 2015, Petitioner was placed in noncooperation with child support requirements. (Exhibit D, p. 5)
3. While Petitioner was disqualified from receiving FAP benefits, Petitioner's three children were ongoing recipients of FAP benefits. (Exhibit B, pp. 8-10)

4. On October 23, 2015, Petitioner submitted an application for FIP benefits.
5. On October 23, 2015, the Department sent Petitioner a Verification Checklist (VCL) instructing her to contact OCS by November 2, 2015, to comply with child support requirements. (Exhibit C)
6. On November 16, 2015, the Department sent Petitioner a Notice of Case Action informing her that her FIP application was denied on the basis that she failed to cooperate in establishing paternity or securing child support. The Notice further informs Petitioner that she was approved for FAP benefits in the amount of \$511 based on a household size of three. (Exhibit A)
7. On December 4, 2015, Petitioner requested a hearing disputing the Department's actions with respect to her FIP and FAP benefits.

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.

Additionally, the custodial parents 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. Absent parents are required to support their children. Support includes **all** of the following: child support, medical support and payment for medical care from any third party. BEM 255 (April 2015), pp. 1,9. A client's cooperation with paternity and obtaining child support is a condition of FAP eligibility. BEM 255, pp. 1, 9-13. Cooperation is required in all phases of the process to establish paternity and obtain support and includes contacting the support specialist when

requested and providing all known information about the absent parent, among other things. BEM 255, p 9.

For ongoing or active FAP cases, a failure to cooperate without good cause will result in member disqualification of the individual who failed to cooperate. BEM 255, p. 14. At application, the client has ten days to cooperate with the OCS. The Department will inform the client to contact the OCS by sending a verification checklist (VCL). A disqualification will be imposed at application if the client fails to cooperate on or before the due date of the VCL and the criteria found in BEM 255 is not met. BEM 255, p. 11-12. Any individual required to cooperate who fails to cooperate without good cause may result in group ineligibility for FIP. BEM 255, pp. 9-13.

In this case, the OCS representative testified that on November 25, 2014, and December 27, 2014, contact letters were sent to Petitioner informing her to contact OCS and provide information regarding the noncustodial parent of her child. The Department testified that Petitioner was found to be in noncooperation on January 20, 2015, and that a Noncooperation Notice was issued on that date. (Exhibit D). Petitioner was subsequently disqualified as a member of her FAP group and her children were recipients of FAP benefits. Petitioner submitted a new application for FIP benefits on or around October 23, 2015. The Department established that it sent Petitioner a VCL informing her that she had ten days to contact the OCS to resolve the issues with child support and to end the noncooperation imposed on her case. On November 16, 2015, the Department sent Petitioner a Notice of Case Action informing her that her FIP application was denied on the basis that she failed to cooperate with child support requirements. (Exhibit A). Claimant requested a hearing disputing the denial.

The representative from the OCS testified that although Petitioner did contact OCS after the FIP application and subsequent VCL, Petitioner did not provide any identifying information regarding the absent father. On October 23, 2015, Petitioner informed OCS that her child was conceived after a one night stand and that she met the absent father in the streets. Petitioner told OCS that the absent father deleted his [REDACTED]. The case notes provided by OCS indicate that based on the information that Petitioner did provide, OCS determined that she still had additional information that she was not providing to the Department and to the OCS and that she seemed as though she had more information. (Exhibit E).

At the hearing, Petitioner testified that her child was conceived after a one night stand. Petitioner stated that she met the absent father on [REDACTED] and messaged back and forth with him for one week. Petitioner stated that she made plans with him one time via [REDACTED], that he picked her up from her home and they went to a hotel together. Petitioner stated that he does not have a real full name on [REDACTED] and goes by the name [REDACTED]. Petitioner testified that she did not have any other contact with him after that one night and stated that when she found out she was pregnant, she messaged him on [REDACTED] to let him know, but he did not respond. Petitioner testified that she thinks he is from the Inkster area and provided a physical description of the

absent father on the record. Petitioner maintained that she did not have any other information on the absent father that she did not disclose.

Under the facts presented, the Department and the OCS have failed to establish that Petitioner had additional information regarding the father's identity that she failed to disclose, thereby, making her ineligible for FIP and FAP benefits.

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 denied Petitioner's FIP application and determined that she was ineligible for FAP benefits on the basis that she failed to cooperate with child support requirements.

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 child support sanction placed on Petitioner's FIP and FAP cases;
2. Register and process Petitioner's October 23, 2015, FIP application;
3. Issue FIP supplements to Petitioner for any FIP benefits she was eligible to receive but did not from the application date, ongoing;
4. Recalculate Petitioner's FAP budget to include her as an eligible member of her FAP group from the hearing date, ongoing;
5. Issue FAP supplements to Petitioner from the hearing date ongoing, in accordance with Department policy; and
6. Notify Petitioner in writing of its decision.



Zainab Baydoun
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **2/3/2016**

Date Mailed: **2/3/2016**

ZB / tlf

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

