

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

IN THE MATTER OF:



MAHS Reg. No.: 15-020005
Issue No.: 3011
Agency Case No.: [REDACTED]
Hearing Date: December 14, 2015
County: Wayne (55)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 December 14, 2015, from Detroit, Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by [REDACTED], hearing facilitator [REDACTED], lead support specialist from the Office of Child Support (OCS), and [REDACTED], specialist.

ISSUE

The issue is whether MDHHS properly disqualified Petitioner from receiving Food Assistance Program (FAP) benefits due to a child support disqualification

FINDINGS OF FACT

The administrative law judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Petitioner was an ongoing FAP benefit recipient.
2. Petitioner failed to attend two appointments for genetic testing with the Wayne County prosecutor's office for the purpose of establishing paternity for her twin children.
3. On March 25, 2015, MDHHS imposed a child support disqualification against Petitioner due to Petitioner's failure to cooperate in attending genetic testing appointments.
4. On June 16, 2015, Petitioner became cooperative with obtaining child support.

5. On an unspecified date, MDHHS ended Petitioner's child support disqualification to positively affect Petitioner's FAP eligibility for August 2015.
6. On October 14, 2015, Petitioner requested a hearing to dispute her FAP eligibility for the months from May 2015 through July 2015, and to dispute a termination of FAP eligibility beginning August 2015.
7. Petitioner testified she no longer disputes the termination of FAP eligibility beginning August 2015.

CONCLUSIONS OF LAW

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. MDHHS (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. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing to dispute her FAP eligibility. Petitioner's hearing request referenced a termination of FAP benefits, effective August 2015. MDHHS testimony stated that the termination was caused by Petitioner's failure to attend a redetermination interview. Petitioner testimony conceded she no longer wished to dispute the termination. Petitioner's hearing request will be dismissed concerning the termination of FAP eligibility, effective August 2015.

Petitioner also requested a hearing to dispute the amounts of her past FAP eligibility. Petitioner testimony conceded her dispute was restricted to the months from May 2015 through July 2015.

It was not disputed that MDHHS reduced Petitioner's FAP eligibility from May 2015 through July 2015, after Petitioner was removed as a FAP benefit group member. It was also not disputed that the basis for removing Petitioner was her alleged lack of cooperation in obtaining child support. Petitioner only disputed the effect of the child support disqualification concerning her FAP eligibility from May 2015 through July 2015.

Concerning FAP eligibility, 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 (April 2015), p. 1. Cooperation is a condition of eligibility. *Id.*, p. 9. Cooperation is required in all phases of the process to establish paternity and obtain support. *Id.* It includes all of the following (see *Id.*):

- 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).

MDHHS's testimony indicated Petitioner was uncooperative, effective March 25, 2015. MDHHS's testimony also indicated the reason for non-cooperation was Petitioner's failure to attend genetic testing to establish paternity for her for twin children.

MDHHS testimony alleged Petitioner failed to attend genetic testing appointments on January 8, 2015 and February 10, 2015. MDHHS presented testimony that the appointments were scheduled by the Wayne County prosecutor's office. Petitioner's testimony conceded she missed both appointments. Petitioner did not provide an excuse for her first missed appointment though she stated she moved sometime in early 2015, and did not receive notice of the second appointment. Missing one appointment is grounds for a child support disqualification. Even if it was accepted that Petitioner moved, Petitioner appears to be at fault for not receiving notice of the second missed appointment as there was no evidence she reported an address change with the Wayne County prosecutor's office.

Petitioner testified that the imposed disqualification was tainted, in part, because the Wayne County prosecutor's office failed to genetically test the person she reported to be the father. Petitioner credibly testified that the prosecutor's office tested a man who had the exact same name and birthdate of the man reported by Petitioner to be her children's biological father. Petitioner's testimony was sufficiently credible, however, it was not clear how the mix-up contributed to the finding of non-compliance. Petitioner was disqualified for failing to attend genetic testing appointments, not for reporting false or insufficient paternal information. Petitioner also provided an alternative reason for reversing the child support disqualification.

Petitioner testified she obtained her children's father signature on her children's birth certificate on April 1, 2015. Petitioner contended she should have been considered cooperative with establishing paternity as of April 1, 2015.

The problem with Petitioner's contention is the absence of evidence that she forwarded the proof of paternity to MDHHS or the Wayne County prosecutor's office. Petitioner cannot be considered cooperative with obtaining child support until MDHHS (or in this case, the Wayne County prosecutor's office) was aware that Petitioner wrapped up the mystery of paternity concerning Petitioner's twin children.

Petitioner testimony conceded she did not report the birth certificate to MDHHS until August 2015. This testimony made it tempting to find Petitioner's date of child support cooperation to be sometime in August 2015. As it happened, MDHHS testimony indicated Petitioner likely provided the Wayne County prosecutor's office with her children's birth certificate on an earlier date.

MDHHS specialist's testimony conceded Petitioner's case listed a cooperation date of June 16, 2015. Credible testimony from the OCS lead specialist indicated the Wayne

County prosecutor's office likely entered the cooperation date because they were the agency involved with establishing paternity of Petitioner's twins. Based on the presented evidence, it is found that Petitioner complied with child support on June 16, 2015.

The non-cooperation continues until a comply date is entered by the primary support specialist or cooperation is no longer an eligibility factor. *Id.*, p. 10. [Any] disqualified member is returned to the eligible group the month after cooperation or after serving the one month disqualification, whichever is later. *Id.*, p. 15.

Based on Petitioner's compliance date of June 16, 2015, MDHHS should have returned Petitioner to her FAP eligibility group beginning July 2015. MDHHS waited until August 2015 to affect Petitioner's FAP eligibility. Accordingly, MDHHS will be ordered to redetermine Petitioner's FAP eligibility for July 2015.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that Petitioner withdrew her hearing request concerning a termination of FAP eligibility beginning August 2015. Petitioner's hearing request is **PARTIALLY DISMISSED**.

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly imposed a child support disqualification against Petitioner for the months of May 2015 and June 2015. The actions taken by MDHHS are **PARTIALLY AFFIRMED**.

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly processed Petitioner's FAP eligibility. It is ordered that MDHHS perform the following actions within 10 days of the date of mailing of this decision:

- (1) redetermine Petitioner's FAP eligibility for July 2015, subject to the finding that Petitioner was cooperative with obtaining child support as of June 16, 2015; and
- (2) issue a supplement of any benefits improperly not issued.

The actions taken by MDHHS are **REVERSED**.



Christian Gardocki
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **12/15/2015**
Date Mailed: **12/15/2015**
CG/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:

