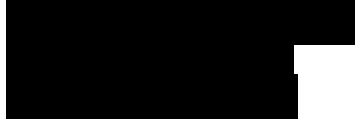


**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HEALTH AND HUMAN SERVICES**

IN THE MATTER OF:



MAHS Reg. No.: 15-022364
Issue No.: 3002 3011
Agency Case No.: [REDACTED]
Hearing Date: January 20, 2016
County: Wayne (15)

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 January 20, 2016, from Detroit, Michigan. Petitioner did not appear for the hearing. Petitioner's spouse, Eleanor Snodgrass, represented Petitioner. [REDACTED], Petitioner's daughter, testified on behalf of Petitioner. The Michigan Department of Health and Human Services (MDHHS) was represented by [REDACTED], specialist, and Patrick Dolton, lead worker for the Office of Child Support (OCS).

ISSUES

The first issue is whether MDHHS properly terminated Petitioner's Food Assistance Program (FAP) eligibility due to Petitioner's failure to verify assets.

The second issue is whether MDHHS properly imposed a child support disqualification against Petitioner's daughter.

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 recipient.
2. Petitioner's FAP benefit group included a daughter and a grandchild.
3. In January 2015, OCS mailed two requests to Petitioner's daughter concerning the paternity of Petitioner's grandchild.

4. Petitioner's daughter failed to respond to the OCS inquiries.
5. On [REDACTED], MDHHS imposed a child support disqualification against Petitioner's daughter for her failure to cooperate with obtaining child support.
6. On [REDACTED], Petitioner's daughter reported to OCS that she does not know the paternity of her child's father.
7. OCS continued the child support disqualification against Petitioner's daughter due to her failure to report paternity information.
8. On [REDACTED], MDHHS terminated Petitioner's FAP eligibility, effective November 2015, due to Petitioner's failure to verify bank account information and/or because of the child support disqualification against Petitioner's daughter.
9. On [REDACTED], Petitioner requested a hearing to dispute the FAP termination.

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 a termination of FAP benefits, effective November 2015. MDHHS presented a Notice of Case Action (Exhibit 1, pp. 1-2) which provided two reasons to support the termination. The first reason was an alleged failure by Petitioner to verify bank account information.

[For all programs, MDDHS is to] use the DHS-3503, Verification Checklist to request verification. BAM 130 (July 2015), p. 3. [MDDHS must] allow the client 10 calendar days (or other time limit specified in policy) to provide the verification that is requested. *Id.*, p. 6. [MDHHS] must tell the client what verification is required, how to obtain it, and the due date. *Id.*, p. 3. The client must obtain required verification, but the local office must assist if they need and request help. *Id.*

MDHHS evidence to support FAP termination based on a failure to verify an asset was underwhelming. MDHHS failed to provide a VCL to verify that a valid verification request was made. MDHHS could not state on what date the VCL was allegedly mailed. MDHHS could not specify what bank information was requested (checking or saving).

Petitioner's spouse testified that she did not receive a VCL. Petitioner's spouse's testimony was not particularly persuasive, however, in light of opposing evidence, it was persuasive enough. It is found that MDHHS failed to establish that a VCL was mailed to Petitioner. Accordingly, the corresponding termination was improper.

The majority of the hearing was spent on the second provided basis for FAP benefit termination. MDHHS testified that the FAP termination was justified based on Petitioner's daughter's failure to cooperate with child support.

Though the testifying MDHHS specialist contended otherwise, a child support disqualification does not directly cause FAP benefit termination. For FAP benefits, failure to cooperate without good cause results in disqualification of the individual who failed to cooperate. BEM 255 (April 2015), p. 13. It is theoretically possible that Petitioner's daughter's child support disqualification was the difference in benefit eligibility and ineligibility for remaining group members. It is also possible that the child support disqualification was listed on the Notice of Case Action as part of the benefit determination, but not the reason to justify the end of FAP benefits. The consideration of whether the child support disqualification caused Petitioner's FAP eligibility to end is moot if the disqualification was improper. The analysis will proceed to determine if the disqualification was improper.

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).

It was not disputed that MDHHS disqualified Petitioner's daughter for her failure to provide paternity information. It was not disputed that Petitioner's daughter first contacted OCS on [REDACTED] to report paternity information. It was also not disputed that Petitioner's daughter reported that her child was conceived at a party after she passed out from something put into her drink. Petitioner's daughter testified (and reported to OCS) that she had no idea who fathered her child. Petitioner's daughter testified a police report was never filed.

Petitioner's daughter's reporting, if accurate, would absolutely support a finding of good cause for failing to pursue child support. Presumably, OCS did not believe Petitioner's daughter's story.

OCS testimony implied Petitioner's daughter's story was atypical in that she expressed no interest in identifying the father of her child, whereas most others who report such abuse want to pursue criminal sexual charges against the perpetrator. Petitioner's mother testified she did not want her daughter to attempt to identify the perpetrator because she did not want the person in her grandchild's life. Even if it were true that most victims of sexual abuse wish to pursue criminal charges, some victims reasonably do not. The failure by Petitioner's daughter to pursue criminal charges is not deemed to be supportive of the child support disqualification imposition.

OCS testimony implied Petitioner's daughter's ignorance of paternity was suspicious because the underlying story lacked details. During the hearing, Petitioner's daughter conceded she could not identify the address of where the party occurred. She was able to identify the name of her friend who took her to the party. The skepticism raised by OCS was reasonable, however, OCS did not identify what details Petitioner's daughter could have, yet failed to provide.

It is somewhat notable that Petitioner's daughter reported information to OCS only following two contact letters, a letter imposing disqualification, and the passing of several months. Petitioner's daughter testified her reporting was delayed because she did not receive any of the OCS the letters requesting paternity information. It is improbable, barring additional evidence, that Petitioner's daughter overlooked three letters (assuming MDHHS properly mailed them) requesting paternity. This consideration lessened Petitioner's daughter's credibility.

It is plausible that Petitioner's daughter knows the identity of her child's father and that a scared teenager manufactured a story that would be least displeasing for her family. It is also plausible that Petitioner's daughter reported all known paternity information and that she reasonably will not pursue child support out of fear of identifying the father.

In matters of child support disqualification involving paternity, MDHHS has the burden to establish that the mother failed to provide requested verification and that the mother knew the requested information. *Black v Dept of Social Services*, 195 Mich App 27 (1992). MDHHS failed to prove that Petitioner's daughter failed to provide requested information and that she possesses such information. Accordingly, Petitioner's daughter will be deemed to have been cooperative since [REDACTED], the date she first reported information to OCS.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly terminated 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) determine Petitioner's FAP eligibility, effective November 2015, subject to the following findings:
 - a. MDHHS failed to establish Petitioner failed to verify assets; and
 - b. Petitioner's daughter was cooperative with child support as of [REDACTED] and [REDACTED]
- (2) supplement 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: 1/25/16

Date Mailed: 1/25/16

CG / hw

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:

