



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
Christopher Seppanen
Executive Director

MIKE ZIMMER
DIRECTOR

[REDACTED]

Date Mailed: March 29, 2016
MAHS Docket No.: 16-001895
Agency No.: [REDACTED]
Petitioner: [REDACTED]

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 telephone hearing was held on March 28, 2016, from Detroit, Michigan. The Petitioner was represented by herself. A witness, [REDACTED], also appeared for the Petitioner. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearing Facilitator. [REDACTED], Lead Support Specialist, Office of Child Support also appeared for the Department.

ISSUE

Did the Department properly find the Petitioner in Noncooperation with the Office of Child Support (OCS) and remove Petitioner from her Food Assistance Program (FAP) Group?

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 Petitioner also requested a hearing regarding her Medical Assistance (MA) and at the hearing advised that her MA was active, and she no longer required a hearing regarding that issue and withdrew her request for hearing on the record. Exhibit 1.

3. The Petitioner was determined to be in noncooperation by the Office of Child Support on January 27, 2016. As a result of the noncooperation, the Petitioner was disqualified from her FAP group; and the Petitioner's FAP benefits decreased to \$ [REDACTED] effective March 1, 2016. Exhibit 3 and Exhibit 9.
4. The Petitioner was found in noncooperation due to failing to identify information about the absentee parent of her child. Exhibit 9.
5. The Petitioner requested a hearing on February 11, 2016, protesting the Department's actions.

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 Medical Assistance (MA) program is established by Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. The Department (formerly known as the Department of Human Services) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

In this case, the Department, through the Office of Child Support, found the Petitioner in noncooperation based on information which she provided to the OCS in an interview conducted [REDACTED]. It has been approximately [REDACTED] years at the time of the OCS investigation since the Petitioner had contact with the absentee parent.

The Petitioner credibly testified at the hearing as follows: The Petitioner had a relationship with a man whose name she knew to be [REDACTED] approximately [REDACTED] years ago. At the time, she was [REDACTED] years old and was given his first and last name. The Petitioner had a relationship with [REDACTED] for approximately three months and became pregnant. She told him about her pregnancy. She saw the absentee parent only a few times after the child was born. The absentee parent gave her several hundred dollars on one occasion

after the child was born. The absentee parent also came by her mother's home while Petitioner was at work. She also wrote down a license plate number of a car that the absentee parent was either in or driving and went to the [REDACTED] police to determine whether the car license plate matched the name the absentee parent had given her; it did not. The Petitioner also no longer had a phone number for [REDACTED] because the phone number she had was disconnected the last time she had tried it many years ago. The Petitioner also described an incident where [REDACTED] took her to a home in [REDACTED] where she met his mother who was of [REDACTED] descent. The Petitioner did not recall the street or have an address as the meeting was rather contentious. Apparently, the parent wanted [REDACTED] to marry the Petitioner; and the Petitioner was unwilling to marry someone who did not want to be married to her. She left shortly after the meeting became contentious. At the time she went to the house, she drove with her then infant child to the house and the absentee parent. This incident occurred many years ago, and she credibly testified she did not know where the house was located other than that it was in [REDACTED]. The Petitioner advised the Department that all she could give them was a description, which she provided that he was 5'8" had golden blonde highlights over dark brown hair, of [REDACTED] descent, brown eyes, solid build and that she last saw [REDACTED] in the summer of [REDACTED]. Petitioner indicated that the absentee parent was dishonest and lied about his name. The Petitioner's witness and mother, who also testified at the hearing, confirmed the dishonesty.

The Department policy applicable to the issue of noncooperation is found in BEM 255. It defines cooperation as follows:

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.

Members of an FAP group or found in noncooperation are disqualified if they failed to cooperate without good cause. The individual and it is removed from the FAP EDG for a minimum of one month. The remaining eligible group members will receive benefits. BEM 255, p. 14

In this case, the Office of Child Support found the Petitioner in noncooperation even though she had contacted the support specialist as requested on [REDACTED] and provided all known information about the absent parent. The Office of Child Support did not identify any known information that the Petitioner withheld or otherwise did not disclose. Although the information provided by the Petitioner did not lead to an identification of the absentee parent, after a [REDACTED]-year period passing without any contact by the Petitioner with the absentee parent, it is determined the Petitioner provided all known information available to her at this time. As stated above, the Petitioner's testimony was deemed credible; and after such a long passage of time, it is not reasonable to expect that she would have information that could assist the Office of Child Support. In addition, when the Petitioner had relevant information about the absentee parent, she took it upon herself to go to the law enforcement office to determine if a license plate of the car that she identified as one driven by the absentee parent matched the false name he had given her.

Based upon the facts and testimony presented at the hearing, it is determined that the Petitioner cooperated to the full extent she was able to do so in assisting and providing information to the Office of Child Support, and therefore, should not have been placed in noncooperation.

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 acted in accordance with Department policy when it disqualified the Petitioner from her FAP Group due to noncooperation with the Office of Child Support.

In addition, the Petitioner's hearing request regarding her MA benefits was withdrawn on the hearing record and is, therefore, ordered DISMISSED.

DECISION AND ORDER

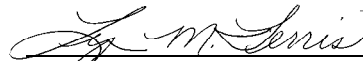
Accordingly, the Department's decision is **REVERSED**.

Petitioner's hearing request regarding her Medical Assistance benefits was withdrawn on the hearing record and is, therefore, ordered **DISMISSED**.

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 reinstate the Petitioner to her FAP group effective March 1, 2016.
2. The Department shall remove the Child Support sanction of Noncooperation issued on or about January 27, 2016.
3. The Department shall issue an FAP supplement to the Petitioner for any FAP benefits she is otherwise entitled to receive in accordance with Department policy.

LMF/jaf



Lynn M. Ferris
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

NOTICE OF APPEAL: A party may appeal this Order in circuit court within 30 days of the receipt date. A copy of the circuit court appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Order if the request is received by MAHS within 30 days of the date the Order was issued. The party requesting a rehearing or reconsideration must provide the specific reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088; 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

DHHS

[REDACTED]

Department Representative

[REDACTED]

Petitioner

[REDACTED]

cc:

[REDACTED]