



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: April 22, 2016
MAHS Docket No.: 16-003604
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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. After due notice, telephone hearing was held on April 20, 2016, from Lansing, Michigan. Participants on behalf of Petitioner included [REDACTED]. [REDACTED] represented the Department of Health and Human Services (Department). Witnesses on behalf of the Department included Assistant Prosecuting Attorney for Oakland County [REDACTED].

ISSUE

Did the Department of Health and Human Services (Department) properly close the Petitioner's Family Independence Program (FIP) benefits and reduce her Food Assistance Program (FAP) benefits due to her noncooperation with the Oakland County Prosecuting Attorney (Prosecuting Attorney)?

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 Family Independence Program (FIP) and Food Assistance Program (FAP) recipient.
2. The Prosecuting Attorney received a Court Action Referral to establish paternity by court order for the Petitioner's child. Exhibit A, p 10.
3. On January 8, 2016, the Prosecuting Attorney sent a request to the Petitioner at her current mailing address for information necessary to identify and locate the absent father of her child. Exhibit A, pp 13-14.

4. On January 19, 2016, the Prosecuting Attorney sent a second request to the Petitioner at her current mailing address for information necessary to identify and locate the absent father of her child. Exhibit A, pp 15-16.
5. On February 4, 2016, the Prosecuting Attorney sent a notice to the Petitioner at her current mailing address requesting that she attend a meeting on February 17, 2016, to a discuss child support action for her child. Exhibit A, pp 17-18.
6. The Petitioner did not respond to the notices sent on January 8, 2016, and January 19, 2016, nor did she attend or attempt to reschedule the February 17, 2016, appointment. Exhibit A, p 20.
7. On February 17, 2016, the Prosecuting Attorney notified the Petitioner and the Department that it found the Petitioner to be noncooperative with its efforts to identify and locate the absent father of her child. Exhibit A, p 21.
8. On February 17, 2016, the Department notified the Petitioner that it would close her Family Independence Program (FIP) benefits and reduce her Food Assistance Program (FAP) benefits due to her noncooperation the Oakland County Prosecutor's Office to identify and locate the absent father of her child. Exhibit A, pp 5-9.
9. On March 16, 2016, the Department received the Petitioner's request for a hearing protesting the closure of her Family Independence Program (FIP) benefits and the reduction of her Food Assistance Program (FAP) benefits. Exhibit A, p 1.

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.

Families are strengthened when children's needs are met. 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. 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. Failure to cooperate without good cause results in disqualification. Disqualification includes member removal, as well as denial or closure of program benefits. Department of Human Services Bridges Eligibility Manual (BEM) 255 (April 1, 2015), pp 1-2.

Any individual required to cooperate who fails to cooperate without good cause causes group ineligibility for a minimum of one month. BEM 255, p 13.

Failure to cooperate without good cause results in disqualification of the individual who failed to cooperate. The individual and his/her needs are removed from the FAP EDG for a minimum of one month. The remaining eligible group members will receive benefits. BEM 255, p 14.

The Petitioner was an ongoing FIP and FAP recipient when the Prosecuting Attorney received a Court Action Referral to establish Paternity by court order for the Petitioner's child. The Prosecuting Attorney sent the Petitioner two requests for information necessary to identify and locate the absent parent of her child but did not receive a response. The Prosecuting Attorney attempted to schedule an interview with the Petitioner that would have taken place on February 17, 2016, but again did not receive a response from the Petitioner. On February 17, 2016, the Department notified the Petitioner and the Department that if found the Petitioner to be noncooperative with its efforts to identify and locate the absent parent of her child.

On February 17, 2016, the Department received the notice of the Petitioner's failure to cooperate with Prosecuting Attorney. The Department then notified the Petitioner that her FIP benefits would close and her FAP benefits would be reduced due to a noncooperation sanction.

The Petitioner argued that she was willing to provide the requested information but that she did not receive the notices from the Prosecuting Attorney. The Petitioner testified that she does not have problems receiving any other mail other than the mail sent from the Prosecuting Attorney.

While a presumption arises that a letter with a proper address and postage will, when placed in the mail be delivered by the postal service, this presumption can be rebutted with evidence that the letter was not received. If such evidence is presented, as it was here, then a question of fact arises regarding whether the letter was received. [Citations omitted.] *Goodyear Tire & Rubber Co v Roseville*, 468 Mich 947; 664 NW2d 751 (2003).

In this case, the Department presented substantial evidence that the correspondence sent from the Prosecuting Attorney was sent to her current mailing address and the Petitioner failed to rebut the presumption of its receipt.

The Petitioner testified that she was treated rudely by employees of the Oakland Prosecuting Attorney's Office.

A complaint as to alleged misconduct or mistreatment by a state employee shall not be considered through the administrative hearing process, but shall be referred to the department personnel director. Mich Admin Code, R 792.11002. This Administrative Law Judge has no jurisdiction over alleged the alleged misconduct or mistreatment by employees of Oakland County either.

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 acted in accordance with Department policy when it closed the Petitioner's Family Independence Program (FIP) benefits and reduced her Food Assistance Program (FAP) benefits.

DECISION AND ORDER

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

KS/las



Kevin Scully
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]

[REDACTED]

Department Representative

[REDACTED]

Petitioner

[REDACTED]