



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: May 19, 2016
MAHS Docket No.: 16-005348
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Darryl Johnson

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 May 18, 2016, from Lansing, Michigan. The Petitioner appeared on her own behalf, along with her friend, [REDACTED]. The Department of Health and Human Services (Department) was represented by Lead Worker [REDACTED].

ISSUE

Did the Department properly reduce Petitioner's Food Assistance Program (FAP) benefits?

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 on-going FAP recipient.
2. Petitioner has a young child, born [REDACTED].
3. Petitioner has not identified the father of the child.
4. On February 8, 2016, the Department mailed to Petitioner a Claim of Good Cause form for her to complete and return. See Exhibit 1 Pages 10-11.

5. Petitioner returned the form on February 18, 2016, but did not identify any “basis of harm” that she believed constituted good cause for not identifying the father of her child.
6. On March 25, 2016, the Department mailed to Petitioner a Verification Checklist (Exhibit 1 Pages 9-10) requesting various documents which were to be provided by April 14, 2016.
7. On April 18, 2016, Petitioner requested a hearing (Exhibit 1 Pages 4-5), claiming she was denied good cause without receiving any written notice explaining why she was denied.
8. Petitioner did not provide any of the required documentation by the deadline and, on April 25, 2016, the Department mailed a Notice of Good Cause Decision (Exhibit 1 Pages 6-7) finding good cause did not exist.
9. Also on April 25, 2016, according to the hearing summary (Exhibit 1 Page 2) the Department reviewed the case and concluded a good cause decision notice was not sent. They also opined that she was cooperating with the Department by disclosing all that she knew about the child’s father.

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 Department’s philosophy and policy with respect to child support cooperation is found in BEM 255.

“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.”

When it comes to FIP, CDC Income Eligible, MA and FAP,

“Failure to cooperate without good cause results in disqualification. Disqualification includes member removal, as well as denial or closure of program benefits, depending on the type of assistance (TOA); see Support Disqualification in this item.”

At page 9 of BEM 255, the applicant’s responsibility to cooperate with respect to child support is described more fully:

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).

The penalties for failure to cooperate are found at page 13. The penalty in the FAP is: “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.”

The evidence establishes that the Petitioner has provided all of the information available to her to the Department. The Department has not provided any documentation to show that Petitioner failed to respond when was asked by the Office of Child Support (OCS) to provide information regarding the father. Just because the Department was not able to find the father with the information she provided does not mean that she is withholding information from the Department. As stated in *Black v Dep’t of Social Services*, 195 Mich App 27 (1992), the State must have a plan requiring recipients to cooperate with the State in establishing the paternity of a child born out of wedlock if benefits are sought for that child. “The plan must also ‘specify that cooperate includes . . . [p]roviding information, or attesting to the lack of information, under the penalty of perjury.’ 45 CFR 232.12(b)(3).” *Black* at 30-31. The State has the burden of proving

noncooperation, and to do so, it “must show both that the mother failed to provide requested information and also ‘[t]hat she knew the requested information.’” *Id.*

Petitioner submitted a written statement to the Department (Exhibit 1 Pages 12-13) explaining the circumstances which led to the conception. Her testimony during the hearing was consistent with that written statement. Understandably, Petitioner is embarrassed by those circumstances and it does not seem necessary to further embarrass her by repeating them in detail here. They can be summarized as: Petitioner met someone at a time when she was emotionally vulnerable and intoxicated. She only got a first name of the man. They ended up *in flagrante delicto* and the child was conceived. The man left her just moments after the act and did not return, never to be seen by her again.

The Department has not met its burden of proving by a preponderance of the evidence that Petitioner failed to provide any information that she knew regarding the father of her child. Nor has it met its burden of proving that Petitioner was allowed to respond to the March 8, 2016 and March 25, 2016 Verification Checklists before it took negative action. For that matter, it has not even provided any evidence that she was determined by the OCS to be in non-cooperation status.

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 act in accordance with Department policy when it reduced Petitioner’s FAP benefits.

The hearing summary does not detail when negative action was taken. It is presumed that it was taken on April 25, 2016, when the Notice of Good Cause Decision (Exhibit 1 Pages 6-7) was mailed. There was no Notice of Case Action provided. The only evidence that benefits were reduced is in Exhibit 1 Page 3 which simply says “Benefits decreased” and the reason given was “Non-cooperation of child support requirements.”

DECISION AND ORDER

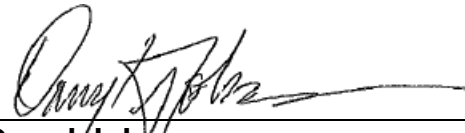
Accordingly, the Department’s decision is **REVERSED**.

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. Redetermine Petitioner’s FAP benefit eligibility, effective as of the time her benefits were reduced or denied;

2. Issue a supplement to Petitioner for any benefits improperly not issued.
3. Take steps to see that Petitioner's OCS sanction, if any, is deleted from Bridges.

DJ/mc



Darryl Johnson
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]

Petitioner

[REDACTED]