



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

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Date Mailed: May 25, 2016
MAHS Docket No.: 16-004618
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

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 three way telephone hearing was held on May 19, 2016 from Detroit, Michigan. The Petitioner appeared for the hearing and represented herself. The Department of Health and Human Services (Department) was represented by ██████████, Family Independence Specialist and ██████████, Lead Support Specialist with the Office of Child Support (OCS).

ISSUE

Did the Department properly close Petitioner's Family Independence Program (FIP) case and determine that she was ineligible for Food Assistance Program (FAP) benefits on the basis that she failed to cooperate with child support requirements?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On January 6, 2016, Petitioner submitted an application for FIP benefits and was subsequently approved.
2. Petitioner was an ongoing recipient of FAP benefits.
3. On January 23, 2016, Petitioner gave birth to Child A.

4. On January 27, 2016, and February 26, 2016, the OCS sent Petitioner a First Contact Letter and Final Contact Letter, instructing her to contact OCS and provide information on the absent father of Child A. (Exhibit A, pp. 1-4)
5. On March 23, 2016, a Noncooperation Notice was issued to Petitioner by the OCS informing her that she was considered to be noncooperative with child support requirements as she did not respond to the requests for information contained in the above referenced contact letters. (Exhibit A, p. 5)
6. On March 23, 2016, the Department sent Petitioner a Notice of Case Action advising her that effective May 1, 2016, her FIP case would be closed and that effective May 1, 2016, her FAP benefits and group size reduced on the basis that she failed to cooperate in establishing paternity or securing child support. Petitioner was instructed to contact OCS to cooperate. (Exhibit C)
7. On April 4, 2016, Petitioner contacted the OCS and provided what she believed was the first name of the absent father. Petitioner notified OCS that she did not have any other information regarding the absent father, as she met him at a club and never saw him after the night her child was conceived. (Exhibit B)
8. On April 5, 2016, Petitioner requested a hearing disputing 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 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.

Additionally, the custodial parents 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. Absent parents are required to support their children. Support includes **all** of the following: child support, medical support and payment for medical care from any third party. BEM 255 (April 2015), pp. 1,9. A client's cooperation with paternity and obtaining child support is a condition of FIP and FAP eligibility. BEM 255, pp. 1, 9-13. Cooperation is required in all phases of the process to establish paternity and obtain support and includes contacting the support specialist when requested and providing all known information about the absent parent, among other things. BEM 255, p 9. For ongoing or active FAP cases, a failure to cooperate without good cause will result in member disqualification of the individual who failed to cooperate. BEM 255, p. 14. Any individual required to cooperate who fails to cooperate without good cause may result in group ineligibility for FIP. BEM 255, pp. 9-13.

In this case, the representative from OCS testified that although Petitioner contacted OCS on April 4, 2016, because Petitioner did not provide sufficient identifying information regarding the absent father of Child A, she continued to be in noncooperation with child support requirements. (Exhibit B). At the hearing, Petitioner stated that she moved to Michigan from ██████ in October 2015 and that her child was conceived after a one night stand in ██████, ██████. Petitioner testified that she was at a bar, ██████, was drunk and met a man who told her his name was ██████. Petitioner stated that she was only with him that one night and did not have any further contact with the absent father. Petitioner testified that after finding out she was pregnant, she tried unsuccessfully to locate the absent father. Petitioner provided a physical description and age range but maintained she did not have any other identifying information on the absent father and that no father was listed on Child A's birth certificate.

Under the facts presented, the Department and the OCS have failed to establish that Petitioner had additional information regarding the father's identity that she failed to disclose, thereby, making her ineligible for FIP and FAP benefits.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed Petitioner's FIP case and disqualified her from the FAP group on the basis that she failed to cooperate with 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. Remove the child support sanction placed on Petitioner's FIP and FAP cases;
2. Reinstate Petitioner's FIP case effective May 1, 2016;
3. Issue FIP supplements to Petitioner for any FIP benefits she was eligible to receive but did not from May 1, 2016, ongoing;
4. Recalculate Petitioner's FAP budget to include her as an eligible member of her FAP group for May 1, 2016, ongoing;
5. Issue FAP supplements to Petitioner from May 1, 2016, ongoing; and
6. Notify Petitioner in writing of its decision



ZB/tlf

Zainab Baydoun
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

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