



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: June 9, 2016
MAHS Docket No.: 16-005804
Agency No.: [REDACTED]
Petitioner: [REDACTED]

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 June 1, 2016, from Detroit, Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by [REDACTED], program manager.

ISSUE

The issue is whether MDHHS properly reduced Petitioner's Food Assistance Program (FAP) eligibility due to Petitioner's noncompliance with the Office of Child Support (OCS)

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 benefit recipient.
2. Petitioner was not established to be noncompliant with obtaining child support.
3. On [REDACTED], MDHHS mailed Petitioner a Notice of Case Action (Exhibit 1, p. 1) informing Petitioner of a reduction in FAP eligibility to \$357, effective March 2016.

4. On [REDACTED], Petitioner requested a hearing to dispute the reduction of FAP eligibility.

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 reduction in FAP eligibility, effective March 2016. It was not disputed the reduction was caused by a child support disqualification against Petitioner.

[For FAP benefits,] 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:

- 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).

Id.

MDHHS presented a Child Support Non-Cooperation Summary (Exhibit 1, p. 3). The document indicated Petitioner was found noncompliant in obtaining child support for her son, effective [REDACTED]. Neither the document nor MDHHS testimony could elaborate on how Petitioner was noncompliant. During the hearing, the OCS was called at several phone numbers; none of the phone numbers led to successful contact with the OCS.

Due to MDHHS' underwhelming presentation of evidence, a finding can be made that MDHHS failed to establish a basis for child support noncompliance and the accompanying FAP reduction was improper. This finding cannot preclude MDHHS from pursuing future child support disqualifications against Petitioner. Petitioner testimony suggested such actions would border on harassment.

Petitioner testified she previously requested hearings concerning the same issue; she testified every hearing resulted in a favorable outcome for her. Petitioner testified she

has reported all information and attended all appointments concerning establishing paternity. Petitioner also testified she recently attended an appointment with a prosecutor concerning child support; Petitioner testified the prosecutor told her that she was compliant with her reporting. Petitioner also testified to compelling details concerning her obstacles in identifying her child's parent.

MDHHS should be reminded that an inability to identify a biological parent, by itself, is insufficient basis to impose a child support disqualification. Any future actions against Petitioner should be supported by facts and policy.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly reduced Petitioner's FAP eligibility. It is ordered that MDHHS begin to perform the following actions within 10 days of the date of mailing of this decision:

- (1) Redetermine Petitioner's FAP eligibility, effective March 2016, subject to the finding that Petitioner was compliant with obtaining child support; and
- (2) Issue any benefits improperly not issued.

The actions taken by MDHHS are **REVERSED**.

CG/hw



Christian Gardocki
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]