



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: July 20, 2016
MAHS Docket No.: 16-008459
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 [REDACTED] [REDACTED] from Detroit, Michigan. The Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by [REDACTED] [REDACTED] Family Independence Specialist, and [REDACTED], Family Independence Manager. [REDACTED], Senior Child Support Specialist from the Office of Child Support also appeared.

ISSUE

Did the Department properly reduce the Petitioner's Food Assistance Program (FAP) due to noncooperation 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. The Petitioner was an ongoing recipient of FAP and Medical Assistance (MA).
2. On [REDACTED], the OCS found the Petitioner in non-cooperation due to Petitioner's failure to respond to notices sent by the office for her to contact them regarding the paternity of her daughter. Exhibit 2.

3. The Department issued a Notice of Case Action on [REDACTED], reducing the Petitioner's FAP due to noncooperation with the OCS effective [REDACTED], through [REDACTED]. Exhibit 1.
4. The Petitioner is currently married. The Petitioner was previously married to [REDACTED] while still in [REDACTED]. The Petitioner came to the United States (U.S.) as a permanent resident in [REDACTED]. The Petitioner divorced her [REDACTED] husband in [REDACTED], on [REDACTED]. At the time of the divorce, the Petitioner's ex-husband, [REDACTED] was in [REDACTED]. Petitioner's Exhibit A.
5. On [REDACTED], the Petitioner gave the OCS information regarding her ex-husband, including his name and birth date.
6. At the hearing, the Petitioner advised the OCS that she had located her ex-husband on [REDACTED] and he currently lives in [REDACTED]. The Petitioner also provided a copy of her ex-husband's [REDACTED] identification card. Petitioner also presented a copy of her divorce decree from [REDACTED]. Petitioner's Exhibit A.
7. Based upon the information provided at the hearing by the Petitioner, the OCS found the Petitioner in cooperation as of [REDACTED]. Exhibit 4.
8. The Petitioner is currently active for MA, which was not affected by her noncooperation with the OCS due to her pregnancy.
9. The Petitioner requested a timely hearing on [REDACTED].

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 reduced the Petitioner's FAP benefits on [REDACTED], due to noncooperation with the OCS. Exhibit 1. At the hearing, the Petitioner provided new additional information regarding her ex-husband, including a copy of their divorce decree, his Iraqi identification card and her [REDACTED] information that he currently resides in [REDACTED]. Petitioner's Exhibits A and B. Based upon this information, the representative of OCS who participated in the hearing advised that she would find the Petitioner in cooperation as of [REDACTED]. The Notice of Cooperation was to be issued after the hearing. Exhibit 4. The Petitioner also requested a hearing regarding the closure of her MA.

At the hearing, the Department provided evidence that indicated the Petitioner's MA case had not closed and that Petitioner's MA is currently ongoing. With respect to this issue, there is nothing further regarding MA which requires further action by the undersigned. Exhibit 5.

With regard to cooperation with the OCS in order to receive and be eligible for benefits Department policy provides:

FIP, CDC Income Eligible, MA and FAP

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

FAP

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

FAP only

Disqualified member is returned to the eligible group the month after cooperation or after serving the one-month disqualification, whichever is later. BEM 255, p.15.

Based upon the information and evidence, as well as testimony provided at the hearing, it is determined that the Department improperly determined that the Petitioner was in noncooperation as of [REDACTED], based upon the result at the hearing that the Petitioner was found in cooperation by the OCS as of [REDACTED]. Based upon the new cooperation date, the Department must recalculate the Petitioner's FAP benefits as of [REDACTED], when it reduced the benefits.

In addition, as regards the Petitioner's request for hearing regarding MA, it is determined that no issue remains to be decided on the request for hearing regarding MA; therefore, the hearing request must be dismissed as the Petitioner is currently active and receiving MA.

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 the Petitioner's FAP benefits effective [REDACTED].

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 there is no issue that requires a decision regarding the Petitioner's MA as her case is fully active and was not closed.

DECISION AND ORDER

Accordingly, the Department's decision is **REVERSED** with respect to the reduction of the Petitioner's FAP Benefits as [REDACTED].

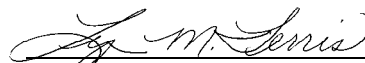
The Petitioner's request for hearing regarding closure of her MA is **DISMISSED** as no issue remains to be decided and the Petitioner is currently fully active and receiving MA.

IT IS SO ORDERED.

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 recalculate the Petitioner's FAP effective [REDACTED], and shall add the Petitioner back as FAP group member. The Department shall also place the Petitioner in cooperation as of [REDACTED].
2. The Department shall issue a written notice to the Petitioner regarding her FAP benefits.

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]