



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: September 26, 2016
MAHS Docket No.: 16-012107
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Susanne E. Harris

HEARING DECISION

Following the 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 September 22, 2016, from Lansing, Michigan. The Petitioner, [REDACTED], appeared and testified with her grandmother, [REDACTED]. The Department of Health and Human Services (Department) was represented by Family Independence Manager, [REDACTED]; Eligibility Specialist, [REDACTED] and Lead Support Specialist of the Office of Child Support (OCS), [REDACTED].

PROCEDURAL HISTORY

The record closed at the conclusion of the hearing. The following exhibits were offered and admitted into evidence:

Department: A-- August 17, 2016, Assistance Application.
B—August 19, 2016, Verification Checklist.
C—Child Support Non-Cooperation Summary.
D—Petitioner's children's birth certificates.
E---OCS Supplemental Hearing Summary.

Petitioner: None.

ISSUE

Did the Department properly take action to deny the Petitioner's application for Family Independence Program (FIP) and to sanction the Petitioner's Food Assistance Program (FAP) due to the Petitioner's noncooperation with 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. On August 17, 2016, the Petitioner applied for FIP, CDC and FAP benefits.
2. On August 19, 2016, the Department sent the Petitioner a Verification Checklist instructing the Petitioner to get in contact with OCS.
3. On August 24, 2016, the Petitioner telephoned OCS and was advised that she was considered to be in noncooperation status with the OCS.
4. On August 24, 2016, the Department sent the Petitioner notice that her FIP application would be denied and that her FAP case would be sanctioned due to her noncompliance with OCS.
5. On August 24, 2016, the Petitioner submitted an unsigned email request for a hearing.

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.

Regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in Mich Admin Code, R 792.10101 to R 792.10137 and R 792.11001 to R 792.11020. Rule 792.11002(1) provides as follows:

An opportunity for a hearing shall be granted to an applicant who requests a hearing because his or her claim for assistance is denied or is not acted upon with reasonable promptness, has received notice of a suspension or reduction in benefits, or exclusion from a service program, or has experienced a failure of the agency to take into account the recipient's choice of service.

A client's request for hearing, except for hearing request for FAP, must be in writing and signed by an adult member of the eligible group, adult child, or authorized hearing representative (AHR). Department of Health and Human Services Bridges Administrative Manual (BAM) 600 (2015), p. 2. In this case, the Petitioner also requested a hearing on the denial of her FIP benefits. This Administrative Law Judge has no jurisdiction to hear that issue as the hearing request in evidence is unsigned. The Petitioner was informed that she was still well within the 90 day time limit to request a hearing on her FIP benefits by submitting a written hearing request. The hearing request for FIP is hereby DISMISSED.

Bridges Eligibility Manual (BEM) 255 (2015) pp. 1, 2, provides that 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. Cooperation with the OCS is a condition of eligibility for FIP, p. 9. Failure to cooperate with the OCS without good cause results in disqualification for FIP. p. 2. BEM 255, pp. 5-8, provides that it is the role of the Support Specialist (SS) to determine cooperation and non-cooperation and to attend pre-hearings and administrative hearings. Cooperation includes 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).

In this case, the Petitioner testified that she provided all known information...she identified a [REDACTED] as the father for one of her children. During the hearing, the Petitioner conceded that she was not even sure that that was the name of the man who is one of her children's father. The Petitioner testified that, regarding her other child, she did not know who the father was. The Specialist from OCS testified that OCS felt that the Petitioner was not forthcoming. The Specialist testified that the Petitioner has a [REDACTED] on her Facebook page, and that there are pictures of him with her and her children. However, [REDACTED] has not been tested for paternity as the Petitioner denies that he is the father of either of her children.

The Petitioner testified that she and [REDACTED] were "playing house," on and off, from approximately January 2013 up until just two or three months before the time of hearing. The Petitioner testified that [REDACTED] is the entire reason that she is in Michigan. She has been subject to domestic violence from [REDACTED] and is

here to testify about it. The Specialist from OCS testified that the Petitioner never mentioned anything about domestic violence when interviewed by OCS.

The allegation in this case is that the Petitioner is not providing all *known* information regarding the absent parent. The OCS Specialist asserts that the Petitioner knows more information than she is providing, particularly as she has been cohabitating with a man named [REDACTED] and she identified a man a [REDACTED] as the father of one her of children originally. Furthermore, the Petitioner's testimony during the hearing indicates that she was coincidentally "playing house" with [REDACTED] during a time in which her children were both conceived and born, according to the birth certificates in evidence. As such, this Administrative Law Judge is persuaded, by a preponderance of the evidence, that the evidence is sufficient to establish that the Petitioner did not provide all known information regarding her child's absent father. As any issue of domestic violence was first raised at the hearing, the evidence does not establish that the Petitioner has any good cause for her noncooperation with the OCS. Therefore, the Administrative Law Judge determines that the evidence does establish that the Department was acting in accordance with its policy when taking sanction the Petitioner's FAP case.

DECISION AND ORDER

The Petitioner's request for a hearing on her FIP denial is hereby **DISMISSED** for lack of jurisdiction. **SO ORDERED.**

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 took action to sanction the Petitioner's FAP case. Accordingly, the Department's decision is **AFFIRMED.**



SH/nr

Susanne E. Harris
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]