



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: October 21, 2016
MAHS Docket No.: 16-012212

[REDACTED]
[REDACTED]

ADMINISTRATIVE LAW JUDGE: Vicki Armstrong

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 September 22, 2016, from Lansing, Michigan. Petitioner, accompanied by [REDACTED] [REDACTED], personally appeared and testified. [REDACTED] testified on behalf of Petitioner.

The Department of Health and Human Services (Department) was represented by Hearing Facilitator [REDACTED], Family Independence Specialist [REDACTED] and Child Support Lead [REDACTED] and [REDACTED] testified on behalf of the Department. The Department submitted Exhibit A, pages 1-42 and Exhibit B, pages 1-5, which were admitted into evidence. The record was closed at the completion of the hearing.

ISSUE

Did the Department properly deny Petitioner's application for Food Assistance Program (FAP) and Family Independence Program (FIP) 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. On June 1, 2016, Petitioner applied for FAP and FIP. [Dept. Exh. 23-42].

2. On June 2, 2016, the Department issued Petitioner a Verification Checklist requesting, among other documents, bank statements and employment verification due by June 13, 2016. [Dept. Exh. 8-10].
3. On June 2, 2016, the Department issued Petitioner an Appointment Notice, with a date of June 9, 2016 at 9:00 a.m. [Dept. Exh. 13-22].
4. On June 14, 2016, the Department issued Petitioner a Notice of Case Action indicating her FIP benefits were denied beginning July 1, 2016 ongoing for failure to return requested verifications. Petitioner's FAP benefits were closed effective July 1, 2016 ongoing for failure to cooperate with the Office of Child Support and to return requested verifications. [Dept. Exh. 2-7].
5. On August 18, 2016, Petitioner submitted a Request for Hearing contesting the FAP and FIP denials. [Dept. Exh. 1-1a].

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.

The only issue raised during the hearing in the above captioned matter, was whether Petitioner was barred from receiving benefits due to her non-cooperation status with the Office of Child Support. There was no evidence presented regarding whether Petitioner timely submitted the requested verifications.

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, Mich Admin Code R 792.11001-11018. 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. Mich Admin Code R 792.11002.

Clients have the right to contest a department decision affecting eligibility or benefit levels whenever they believe the decision is incorrect. BAM 600, p 1 (10/1/2016). The Department will provide an administrative hearing to review the decision and determine the appropriateness in accordance with policy. *Id.*

The Department's philosophy regarding Child Support is that families are strengthened when children's needs are met. BEM 255, p 1 (4/1/2015). 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, and the prosecuting attorney to establish paternity and/or obtain support from an absent parent. *Id.*

Clients 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. *Id.* Absent parents are required to support their children. *Id.* Support includes child support, medical support, and payment for medical care from any third party. *Id.* For purposes of this item, a parent who does not live with the child due solely to the parent's active duty in a uniformed service of the U.S. is considered to be living in the child's home. *Id.*

Failure to cooperate without good cause results in disqualification. *Id.* at 2. Disqualification includes member removal, denial of program benefits or closure of program benefits, depending on the type of assistance. However, a pregnant woman who fails to cooperate may still be eligible for Medicaid. *Id.* at 2.

Exceptions to the cooperation requirement for FIP, CDC income eligible, Medicaid and FAP programs are allowed for all child support actions except failure to return court-ordered support payments received after the support certification effective date. *Id.* at 2. Good cause is granted only if requiring cooperation/support action is against the child's best interests, and there is a specific "good cause" reason. *Id.* at 3. If good cause exists, cooperation is excused as an eligibility requirement for the child involved, but it can still be required for another child in the same family. BEM 255.

Cooperation is a condition of eligibility. *Id.* at 9. The grantee and spouse, the specified relative/person acting as a parent and spouse, and the parent of the child for whom paternity and/or support action is required in the eligible group, are required to cooperate in establishing paternity and obtaining support, unless good cause has been granted or is pending. *Id.* Cooperation is required in all phases of the process to establish paternity and obtain support and 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 (e.g., testifying at hearings or obtaining genetic tests). *Id.*

The support specialist determines cooperation for required support actions. *Id.* at 10. Cooperation is assumed until negative action is applied as a result of non-cooperation being entered. The non-cooperation continues until a comply date is entered by the primary support specialist or cooperation is no longer an eligibility factor. *Id.* Bridges applies the support disqualification when a begin date of non-cooperation is entered and there is no pending or approved good cause. The disqualification is not imposed if any of the following occur on or before the timely hearing request date:

- . The Office of Child Support (OCS) records the comply date.
- . The case closes for another reason.
- . The non-cooperative client leaves the group.
- . Support/paternity action is no longer a factor in the child's eligibility (e.g., the child leaves the group).
- . Client cooperates with the requirement of returning support payments to the Department and the support is certified. *Id.* at 11.

In this case, Petitioner credibly testified that she has provided all known information about the absent parent. Petitioner testified that she was drunk in a bar, and when she left the bar she was unaware of the man's name she had been seen with or if she even had intercourse with. Ms. Pace, who has known Petitioner for several years, also testified on behalf of Petitioner.

There was no record evidence that Petitioner failed to contact the support specialist or that she failed to appear at the office of the prosecuting attorney when requested. There was also no evidence presented that Petitioner refused to take any actions needed to establish paternity.

The Administrative Law Judge finds the Petitioner did establish a good cause reason for failing to cooperate with the Office of Child Support in that she has no memory of the incident occurring due to her alcohol intoxication and therefore, cannot provide any further information.

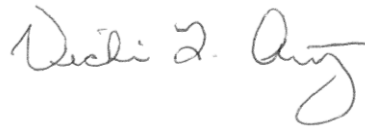
DECISION AND ORDER

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department did not act in accordance with Department policy when it denied Petitioner FIP and FAP benefits based on her failure to cooperate with the Office of Child Support.

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 eligibility for FAP and FIP based on her cooperation with the Office of Child Support.
2. If Petitioner is otherwise eligible, issue Petitioner retroactive FAP and FIP benefits in accordance with this decision.
3. Issue a Notice of Case Action to Petitioner after the redetermination.



Vicki Armstrong
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

[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED] [REDACTED]

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