



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: November 18, 2016
MAHS Docket No.: 16-014976
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Darryl Johnson

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 November 9, 2016, from Lansing, Michigan. The Petitioner appeared on her own behalf. The Department of Health and Human Services (Department) was represented by Assistance Payments Supervisor [REDACTED] and the Office of Child Support (OCS) was represented by Lead Specialist [REDACTED].

ISSUE

Did the Department properly deny Petitioner's application for Child Development and Care (CDC) benefits, reduce her Food Assistance Program (FAP) benefits, and impose a non-cooperation penalty for failure to comply 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 on-going FAP recipient.
2. On August 16, 2014, the OCS mailed to Petitioner a First Customer Contact Letter (Exhibit 1 Pages 14-15) and other documents (Pages 16-28) requiring her to contact the OCS and provide information regarding the father of one of her children.

3. On September 16, 2014, the OCS mailed a Final Customer Contact Letter (Pages 29-30) and other documents (Pages 31-33), again requiring her to provide information regarding the father.
4. A noncooperation notice (Page 34) was mailed on October 12, 2014.
5. According to notes from the OCS, (Pages 12-13) Petitioner had contacted the OCS on August 24, 2014, and provided a description of when the child was conceived, but she said she had no knowledge about who the father might be.
6. Petitioner applied for CDC on August 7, 2016.
7. In a Notice of Case Action (Pages 6-10) dated August 29, 2016, the Department informed Petitioner that her CDC application was denied, and that she was being removed from benefits in the FAP program, due to her noncooperation with the OCS.
8. On October 3, 2016, the Department received Petitioner's hearing request, protesting the denial of her CDC and the reduction in her FAP.
9. During the hearing, Petitioner stated that she was no longer pursuing the CDC issue.

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 Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, 42 USC 601-619, 670-679c, and 1397-1397m-5; the Child Care and Development Block Grant of 1990, PL 101-508, 42 USC 9858 to 9858q; and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193. The program is implemented by 45 CFR 98.1-99.33. The Department administers the program pursuant to MCL 400.10 and provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001-.5020.

BEM 255 (4/1/15) is the manual which guides the Department regarding Child Support. It states at page 9:

COOPERATION

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).

This supports the expressed Department philosophy found at page 1: "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."

In this case, Petitioner testified that the child in question is a boy, born [REDACTED]. She does not know when the child was conceived but estimates it to be in mid to late October of 2013. She describes the circumstances of the conception as follows:

She had worked several 12 hour shifts. She was in [REDACTED], staying with her parents, and went out for an evening with some friends. They went to a party where they got intoxicated. Petitioner then does not

remember anything until she awoke the following morning in her bed at her parents' home. She was not in any relationship with a man at the time, and she does not remember how she got home. She said that her mother had come to the door when she was fumbling, trying to enter the house. She has no recollection of having sex that night.

When Petitioner originally explained the story, she said that she had gone to a party with friends. Later, when she was being questioned about who her friends were and where they went, she then said she was only with one friend, and some work friends of that friend. They had gone out to bars. She said that her friend had become so drunk at the bar that she (the friend) had passed out and her parents had picked her up. She also said that they had gone to just one bar.

Petitioner's testimony is not credible. There were subtle, but noticeable, changes in her story. First, it was a party with friends. Then it was a night out at bars with friends. Then, it was a night out with her friend, and friends of that friend, at one bar. She wants the state to believe that she had gotten so drunk that she has no memory of what happened until she awoke the next morning. Somehow, in spite of her intoxicated state and not having any of her own friends with her, she managed to get herself back to her parents' home.

"Cooperation is a condition of eligibility." BEM 255, p. 9. Cooperation is required at all times, and 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).

The consequence of not cooperating with the Department is disqualification from receiving benefits. BEM 255, p. 13 notes the following with respect to FIP:

Any individual required to cooperate who fails to cooperate without good cause causes group ineligibility for a minimum of one month.

Bridges will close FIP for a minimum of one calendar month when any member required to cooperate has been determined non-cooperative with child support. The disqualification is effective the first day of a month.

In this case, Petitioner was receiving FAP and she applied for CDC. She is obligated to cooperate with the OCS. Her sole attempt at providing information regarding the absent

parent was to offer the dubitable explanation discussed above regarding the time and place of the child's conception. Petitioner is not a credible witness, and her explanation lacks credibility. She has not cooperated with the Department.

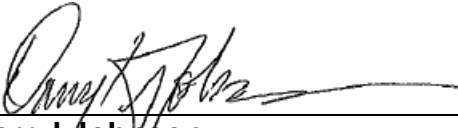
DECISION AND ORDER

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department acted in accordance with Department policy when it removed Petitioner from the FAP group and imposed a noncooperation sanction.

The issue of CDC was WITHDRAWN during the hearing.

Accordingly, the Department's decision is **AFFIRMED**.

DJ/mc



Darryl Johnson
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]