



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 29, 2016
MAHS Docket No.: 16-015867
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 three-way telephone hearing was held on November 23, 2016, from Lansing, Michigan. The Petitioner appeared on her own behalf. The Department of Health and Human Services (Department) was represented by Family Independence Manager [REDACTED] and Case Manager [REDACTED]. The Department's Office of Child Support (OCS) was represented by Lead Child Support Specialist [REDACTED].

ISSUE

Did the Department properly deny Petitioner's application for Child Development and Care (CDC) 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 March 8, 2015, the Department mailed to Petitioner a First Customer Contact Letter (Exhibit 1 Pages 14-28) along with a questionnaire for her to complete, and a handbook. She was required to contact the OCS within 21 days with information regarding the father of her son, born [REDACTED].
2. On April 7, 2015, the Department mailed a Final Customer Contact Letter (Page 30), requiring her to contact the OCS within 21 days.

3. On May 3, 2015, the Department mailed a Noncooperation Notice (Page 33), informing Petitioner that she was “considered to be noncooperative with the child support program” because she had not responded timely to the prior letters.
4. On September 23, 2016, Petitioner applied for CDC.
5. A Verification Checklist was mailed on September 28, 2016, (Pages 5-6) with a due date of October 10, 2016, for her to submit information and to contact the OCS and establish her compliance.
6. On October 11, 2016, the Department mailed a Notice of Case Action (Pages 7-11) informing Petitioner that her CDC application had been denied because she “failed to cooperate with child support requirements.”
7. On October 21, 2016, the Department received Petitioner’s hearing request, protesting the denial of her CDC.

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 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.

The Department’s philosophy and policy with respect to child support cooperation is found in BEM 255 (4/1/15) p.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.” “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.”

When it comes to FIP, CDC Income Eligible, MA and FAP,

“Failure to cooperate without good cause results in disqualification. Disqualification includes member removal, as well as denial or closure of program benefits, depending on the type of assistance (TOA); see Support Disqualification in this item.”

At page 9 of BEM 255, the applicant’s responsibility to cooperate with respect to child support is described more fully:

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).

The penalties for failure to cooperate are found at page 13. The penalty in the CDC is: “Failure to cooperate without good cause results in ineligibility for CDC. Bridges will close or deny the CDC EDG when a child support non-cooperation record exists and there is no corresponding comply date.”

As stated in *Black v Dep’t of Social Services*, 195 Mich App 27 (1992), the State must have a plan requiring recipients to cooperate with the State in establishing the paternity of a child born out of wedlock if benefits are sought for that child. “The plan must also ‘specify that cooperate includes . . . [p]roviding information, or attesting to the lack of information, under the penalty of perjury.’ 45 CFR 232.12(b)(3).” *Black* at 30-31. The State has the burden of proving noncooperation, and to do so, it “must show both that the mother failed to provide requested information and also ‘[t]hat she knew the requested information.’” *Id.*

In this case, the evidence shows that Petitioner did not timely contact the Department with information regarding the identity of her child’s father. She eventually called the OCS, after her CDC application was denied, and the substance of the information she provided was that the child was the product of a one-night stand. The Department properly applied the policy when it denied her CDC application.

During the hearing, the Petitioner was questioned extensively regarding the circumstances leading up to the conception. She explained that she had just moved to

Grand Rapids from Lansing and a co-worker gave her directions to a bar on East Beltline. Being in her early 20s, she decided to go out for an evening. She had a few drinks and began talking with a man who had approached her. He seemed really nice. He said his name was [REDACTED] [REDACTED]. He was really tall, blond hair, blue eyes, thin build, and [REDACTED] wearing jeans and a t-shirt. He did not have glasses or facial hair. After talking for some time, they left the bar and went to her car, where the child was conceived. When they finished, he got out of her car, and she drove away. She has not seen him since then. She does not believe the name that he gave her was his actual name because she tried to search for him and could not find anyone with that name. They did not exchange any contact information, and she did not take any photos with him. She paid cash for her drinks that night so she has no bank records that would help her find the name of the bar where this occurred. The encounter happened on May 23, 2014.

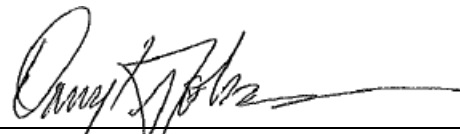
Clearly, Petitioner had quite a bit of information that she could have provided to the Department and perhaps that would have helped locate the child's father. The undersigned is persuaded that she has now disclosed all of the details she can recall that would be of assistance. Because it was not disclosed previously, the Department's denial of CDC will be affirmed, but the Department is strongly encouraged to remove the non-cooperation status, and notify her if it does so, so she can obtain benefits. As explained above, the Department has to prove her non-cooperation, and that requires proving that she has information that she is refusing to provide.

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 denied Petitioner's application for CDC.

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

Department Representative

[REDACTED]

DHHS

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Petitioner

[REDACTED]