



RICK SNYDER
GOVERNOR

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

MIKE ZIMMER
DIRECTOR



Date Mailed: April 12, 2016
MAHS Docket No.: 16-001805
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 April 11, 2016, from Detroit, Michigan. The Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by [REDACTED] [REDACTED] Lead Worker. The [REDACTED] District office did not appear.

ISSUE

Did the Department properly find the Petitioner in 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 Office of Child Support issued a First Customer Contact Letter on September 13, 2014. The Petitioner received the letter but did not contact the OCS. Exhibit 1.
2. The OCS issued a Final Customer Contact Letter on October 14, 2014, which was received by the Petitioner. The Petitioner did not contact the OCS after receiving the letter. Exhibit 2.
3. On November 8, 2014, the OCS issued in noncooperation notice due to the fact that the Petitioner did not respond to the letters previously sent to her by the OCS.

4. The Petitioner applied for State Emergency Relief (SER) on January 13, 2016, and was denied due to noncooperation with OCS. An SER Decision Notice was issued January 26, 2016, for assistance with heat and electricity, which was denied the Petitioner due to failure to cooperate with child support requirements. The Petitioner was also removed from her Food Assistance Program (FAP) group.
5. The first time the Petitioner contacted the Department was in June 2015 and again in August 2015. The Petitioner told the OCS during the June contact that she was not trying to give information, which is merely calling the office.
6. The Petitioner requested a hearing on February 3, 2016, protesting the Department's actions.

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 State Emergency Relief (SER) program is established by the Social Welfare Act, MCL 400.1-.119b. The SER program is administered by the Department (formerly known as the Department of Human Services) pursuant to MCL 400.10 and Mich Admin Code, R 400.7001-.7049.

In this case, the Department denied an application for SER for electric and heat assistance requesting assistance by Petitioner with the payment of the bills. The application was denied because the Petitioner had previously been placed in noncooperation by in Noncooperation Notice dated November 8, 2014. Exhibit 3. The reason at that time the Petitioner was placed in noncooperation was because she had failed to contact OCS after receiving at least two letters advising her to contact them to assist them in identifying the noncustodial parent. Exhibits 1 and 2. The Petitioner sought a review of the noncooperation when she requested a hearing due to her SER application being denied for noncooperation with the OCS. The Petitioner was sent a Good Cause Form but did not return it; thus, good cause is not an issue in this case as no evidence which would establish good cause was presented.

As a condition of FAP and SER eligibility, the custodial parent of a minor child must comply with all requests for action or information needed to establish paternity and/or obtain child support on behalf of children for whom the parent receives assistance, unless a claim of good cause for not cooperating has been granted or is pending. BEM 255 (April 1, 2015), p. 1. Cooperation includes providing **all known information about the absent parent**. BEM 255, p. 9. Clients who fail without good cause to cooperate with child support reporting obligations are ineligible for FAP and SER. BEM 255, p. 12. Further, clients who do not cooperate with their child support reporting obligations are disqualified members of their FAP groups. BEM 212 (July 2014), p. 8; BEM 255, p. 13.

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, p. 9.
- 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

Thus, clearly at the time the OCS issued the Notice of Noncooperation, it was correct to do so as the Petitioner failed to provide OCS any information whatsoever.

At the hearing, the Petitioner testified that she was in [REDACTED] celebrating her [REDACTED] birthday with her sister and a friend on [REDACTED]. All the information provided at the hearing was never provided to OCS and was withheld by Petitioner. It is determined that the information was withheld as it was never reported; and at the time of contact with OCS, the Petitioner said she was not contacting them to provide information.

While in [REDACTED], Petitioner testified that she met a person named [REDACTED] and had sex with him once. Petitioner characterized the meeting with [REDACTED] as an end-of-the-night affair. She testified that did not expect to get pregnant as she had for many years attempted to become pregnant with a prior partner with no success even though she

was only [REDACTED] years of age. Thereafter, when she became pregnant she attempted through her sister and her friend to determine who [REDACTED] was and where he might be found. She had also searched social media; however, the only name she had was [REDACTED] a "Street name". The Petitioner gave birth to her child in [REDACTED] so the [REDACTED]-month gestation period appears correct.

At the hearing, the Petitioner testified that she also gave her baby the last name of [REDACTED] which is also the name of her former partner/boyfriend. The Petitioner never disclosed to the OCS the existence of [REDACTED] and the fact that he was a former sexual partner. The Petitioner testified that the last time she had sex with her former partner, [REDACTED], was in the month of [REDACTED]; and he was not the father of her child. She further testified that she named the child after [REDACTED] because he has from time to time helped her with the child. Clearly, the Petitioner withheld this information from OCS who may seek to test her former partner whose last name matches the Petitioner's child's last name.

Clearly, the testimony provided by the Petitioner during the hearing about [REDACTED] and her sex partner does not serve to help identify the noncustodial parent and was not provided to the OCS prior to the hearing. The fact that Petitioner did not tell the Department about [REDACTED], who her daughter is named after, is of greater concern. Based on the evidence at the hearing, particularly the fact that Petitioner had not identified her former boyfriend/partner as a possible father to OCS or the fact that the child has taken his last name, it is clear the Petitioner has not cooperated as she withheld information. The failure to provide this information at any time prior to the hearing requires a determination that Petitioner had not provided all known information about the absent parent and taken appropriate actions needed to establish paternity and obtain child support.

Although the Petitioner stated that she did not have sex with [REDACTED] since [REDACTED], she nonetheless gave her child his last name and testified that he does continue to assist her. This information should have been disclosed so that OCS could have had paternity testing done. Therefore, based upon the evidence presented, including that for several years after being placed in noncooperation the Petitioner failed to contact the OCS at any time to advise them of the events which occurred in [REDACTED] [REDACTED] failed to disclose that she named her child with the last name of a former partner, and failed to provide the name of her former partner/boyfriend, it is determined that the Petitioner has continued to be uncooperative. Thus, the evidence provided at the hearing does not establish cooperation by the Petitioner.

ERM 203(October 1, 2013), p. 2, provides that Groups that are noncooperative with the Office of Child Support are also ineligible for SER. Thus, the Department correctly denied the Petitioner's SER application. Likewise, BEM 255 also requires a noncooperative individual be removed from his or her FAP group.

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 found the Petitioner in noncooperation with the OCS and denied the Petitioner's SER application and removed Petitioner from her FAP group.

DECISION AND ORDER

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

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]

DHHS

[REDACTED]

Department Representative

[REDACTED]

Petitioner

[REDACTED]

CC:

[REDACTED]