



RICK SNYDER  
GOVERNOR

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

SHELLY EDGERTON  
DIRECTOR



Date Mailed: May 2, 2016  
MAHS Docket No.: 16-004189  
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 3-way telephone hearing was held on April 27, 2016, from Detroit, Michigan. The Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by [REDACTED] Assistance Payments Worker. [REDACTED], Lead Support Worker, Office of Child Support, also appeared as a witness for the Department.

### **ISSUE**

1. Did the Department properly process the Petitioner's claim of good cause due to noncooperation with the Office of Child Support (OCS)?
2. Did the Department properly reinstate the Petitioner to her Food Assistance Program (FAP) group when she was found in cooperation by 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 Petitioner advised at the hearing that her Medical Assistance (MA) did not close; and thus, there was no issue remaining to be decided at the hearing regarding any action taken with respect to the MA benefits of Petitioner.
2. The Department was provided a Noncooperation Notice letter from the Office of Child Support finding the Petitioner in noncooperation effective December 12, 2015. Exhibit 4.

3. The Petitioner was placed in noncooperation by the OCS because she had not responded to the first contact letter or the second contact letter within the time set forth in those letters for contacting the OCS.
4. The Department issued a Notice of Case Action on December 14, 2015, removing the Petitioner from her FAP group and reducing the Petitioner's FAP benefits effective January 1, 2015, due to the Notice of Noncooperation.
5. The Department presented no evidence as to whether the Petitioner's MA was closed due to the Non-cooperation Notice dated December 14, 2015.
6. On March 7, 2016, the Department reinstated the Petitioner to her FAP group effective April 1, 2016. Exhibit 1.
7. The OCS issued a Cooperation Notice dated March 8, 2016, advising the Petitioner and the Department that the Petitioner was deemed in cooperation effective March 1, 2016. Exhibit 3.
8. The OCS issued a second Cooperation Notice, which amended the cooperation date, and advised the Petitioner and the Department that that office considered Petitioner cooperative as of January 4, 2016. Exhibits 2 and 4.
9. At the time of the hearing on April 27, 2016, the Department had restored the Petitioner to her FAP group by Notice of Case Action dated March 7, 2016 as she was in Cooperation with the OCS as of March 1, 2016. Exhibit 1.
10. At the time of the hearing, the Department had requested a Help Desk ticket to revise the Petitioner's cooperation date to January 4, 2016.
11. The Petitioner had provided the Department with a name and address for establishing paternity on March 21, 2016; but no action had been taken on this matter by OCS because at the time of the hearing a claim of Good Cause was still pending.
12. At the time of the hearing on April 27, 2016, the Petitioner was listed in the DHHS Bridges system as in cooperation with the OCS.
13. The Petitioner requested a hearing on March 24, 2016.

### **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 Medical Assistance (MA) program is established by Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. The Department (formerly known as the Department of Human Services) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

In this case, at the hearing, the issues were very unclear due to the Department's not having correctly processed issues with regard to cooperation with child support requirements and a claim of good cause by the Petitioner. The initial noncooperation date was December 12, 2015. The Notice of Case Action effectuating the noncooperation was not provided by the Department at the hearing but was apparently issued December 14, 2015, removing Petitioner from her FAP group effective January 1, 2016.

At the hearing, the facts presented demonstrated that the Petitioner was placed in cooperation as a result of a claim of good cause the Petitioner made to the Department on January 4, 2016. However, rather than placing the Petitioner in cooperation effective January 4, 2016, the Department placed the Petitioner in cooperation by virtue of an OCS letter placing Petitioner in cooperation effective March 4, 2016, for 30 days. Exhibit 3. Thereafter, OCS testified at the hearing that it advised the Department in its cooperation letter and email based on information provided to it that the cooperation date was required to be January 4, 2016, as that was the date the Petitioner advised the Department regarding her claim of good cause. The Department complied with the OCS determination and requested a Help Desk Ticket to change the cooperation date to January 1, 2016, which was pending at the time of the hearing. At the time of the hearing, the Petitioner was in cooperation.

No documents were presented by the Department demonstrating that it had complied with Department policy with respect to Petitioner's claim of good cause by providing the Petitioner a DHS-2168 form, which was required to have been signed by both the Department and the Petitioner. Thus, as of the hearing, the Department had not processed the Petitioner's claim of good cause as it is required to do. A claim of good cause must be completed within 45 days of the claim being made and the DHS-2168 form being completed. Currently, a Help Desk Ticket is pending to correct the cooperation date to January 4, 2016. At the hearing, the Department testified that it had restored the Petitioner to her FAP group effective April 1, 2016, due to a claim good cause pending.

Based upon the facts presented, it is determined that as a result of the Department failing to process the Petitioner's claim of good cause, the Department is required, while the good cause claim is pending, to reinstate the Petitioner's FAP benefits. Although the Department did so, it is required to adjust the cooperation date to January 4, 2016, based upon OCS' determination of cooperation. The Department must also reinstate Petitioner to her FAP group based upon the cooperation date of January 4, 2016, and complete a DHS-2168 signed by both the Petitioner and Department before it can take any further action on the good cause claim. BEM 255 (April 1, 2015).

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.

When OCS, FOC or a prosecuting attorney determines a client is in cooperation or noncooperation the determination is entered in Bridges via a systems interface. When the client is in noncooperation, Bridges will generate a notice closing the affected program(s) or reduce the client benefit amount in response to the determination. BEM 255, (April 1, 2016) p. 2.

## **GOOD CAUSE FOR NOT COOPERATING**

### **Informing Families about Good Cause**

#### **FIP, CDC Income Eligible, MA and FAP**

Inform the individual of the right to claim good cause by giving them a DHS-2168, Claim of Good Cause - Child Support, at application, before adding a member and when a client claims good cause. BEM 255, p. 20

**If a client claims good cause, both the specialist and the client must sign the DHS-2168. The client must complete Section 2, specifying the type of good cause and the individual(s) affected. Give the client a copy of the completed DHS-2168.**

**To prevent any support action while the good cause claim is pending, enter good cause status and claim date in the absent parent logical unit of work and file the DHS-2168 in the case within two working days of completion. A claim may be made at any time. The FIS/ES specialist is responsible for determining if good**

**cause exists. Do not deny an application or delay program benefits just because a good cause claim is pending.** A good cause claim must do all of the following:

- Specify the reason for good cause.
- Specify the individuals covered by it.
- Be supported by written evidence or documented as credible.

BEM 255, p.4-5

Make a good cause determination within 45 calendar days of receiving a signed DHS-2168 claiming good cause. The OCS can review and offer comment on the good cause claim before you make your determination. Exceed the 45-day limit **only if** all of the following apply:

- The client was already granted an additional 25-day extension to the original 20-day limit.
- More information is needed that **cannot** be obtained within the 45-day limit.
- Supervisory approval is needed.

Document extensions in the case record.

Enter the good cause claim **within two workdays of the individual's claim**. No support action or contact with the client will be initiated while the good cause claim is pending. BEM 255, p. 7.

## **FAP**

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.

Bridges will end the non-cooperation record if any of the following exists:

OCS records the comply date.

Disqualified member is returned to the eligible group the month after cooperation or after serving the one-month disqualification, whichever is later. BEM 255, p. 15

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 did not act in accordance with Department policy when it reinstated the Petitioner to her FAP group April 1, 2016, instead of January 4, 2016, the date she claimed to have good cause as determined by the OCS. Further, the Department failed to process the Petitioner's claim of good cause and has not completed the process as of the hearing date.

The issue regarding Petitioner's MA closure based on the Petitioner's testimony was not an issue at the time of the hearing; and therefore, there remains nothing to be decided and is DISMISSED.

### **DECISION AND ORDER**

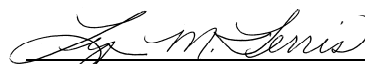
Accordingly, the Department's decision is **REVERSED**.

The Petitioner's request for hearing regarding MA is hereby DISMISSED. It is so ORDERED.

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. The Department shall process the Petitioner's claim of good cause for noncooperation and shall issue a DHS-2168 as required by Department policy and have both the Petitioner and the Department sign the form.
2. The Department shall reinstate the Petitioner to her FAP group based upon the OCS determination that the Petitioner is in cooperation as of January 4, 2016, and shall reinstate Petitioner to her FAP group in accordance with Department policy.
3. The Department shall issue an FAP supplement to the Petitioner for FAP benefits she is entitled to receive based upon her reinstatement to her FAP group based upon OCS finding of cooperation as of January 4, 2016.
4. The Department, after it processes the Petitioner's claim of good cause as required by paragraph 1 hereof, shall provide the Petitioner written notice of its determination of whether good cause was established.

LMF/jaf



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**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]

**Department Representative**

[REDACTED]

**Petitioner**

[REDACTED]

**CC:**

[REDACTED]