



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: October 21, 2016
MAHS Docket No.: 16-013669
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 October 19, 2016, from Lansing, Michigan. The Petitioner appeared on her own behalf. The Department of Health and Human Services (Department) was represented by Hearings Facilitator [REDACTED], and Child Support Lead Worker [REDACTED].

ISSUE

Did the Department properly deny Petitioner's application for Family Independence Program (FIP) 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 applied for FIP benefits.
2. On August 22, 2016, the Department mailed to Petitioner a Verification Checklist (Exhibit 1 Pages 2-3) and advised Petitioner that she had to comply with the OCS before FIP could be approved.
3. On that same date, the Department also provided her with a Claim of Good Cause form (Pages 4-5) to allow her to establish good cause for not providing information regarding the father of her child.

4. The Department mailed a Notice of Case Action (Pages 6-10) on September 8, 2016, informing Petitioner that her application for FIP was denied, due to her non-cooperation with the OCS.
5. On September 8, 2016, the Department received Petitioner's hearing request, protesting the denial of her FIP application.

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.

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 has two children: a daughter age six, and a son age one. The son was born on [REDACTED]. On July 25, 2016, the OCS had mailed a letter to Petitioner (Pages 16-17), telling her that she needed to provide the Department with information regarding the father of her son. She was supposed to contact the OCS by August 4, 2016. She called on July 25, and the only information she provided was that the son was conceived around November 22, 2014, when she was visiting Chicago. She explained that she had become very intoxicated and did not recall ever being in the company of any men. On August 4, 2016, the Department mailed another letter (Pages 20-21) and asked her again to provide information regarding the father, with a deadline of August 12, 2016. She was told that the OCS would find her uncooperative if she did not comply.

On September 3, 2016, Petitioner completed a Child Support Response Form (Pages 24-26) in which she stated, "I believe that disclosure of my address or other identifying information may result in physical or emotional harm to me or the child." She did not provide any contact or other information regarding the father.

During the hearing Petitioner was asked why she would say that it would put her in risk of harm to identify the father. She responded that it was just a generalized fear that he might be part of a gang or something. When questioned about the conception of her son, she explained it as follows: She and two of her friends had gone to Chicago for Thanksgiving. One of her friends had family there, and the three of them stayed with that family. The first night they were there was Tuesday, November 25, 2014. They all stayed at the house that night. The next night, the three girls went to a club. They stayed at the club, and returned directly home when the night was done. The third night, they again spent at the home. They returned to the [REDACTED] area on Friday, November 28. Petitioner said that she has no memory of being with any man at the club, but she insisted that was the only time and place she could have become pregnant, based upon the birth date of the child.

The explanation that Petitioner offers is remarkable. She claims that there was only one possible evening when she could have conceived the child, and that it must have happened in a club when she was drunk. She has not asked either of her friends for

any information that they might have about the father's identity, even though they were with her when they went to the club, while they were at the club, and when they returned home from the club.

"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.

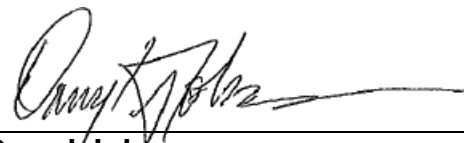
In this case, Petitioner has applied for FIP. She is obligated to cooperate with the OCS. Her sole attempt at providing information regarding the absent parent was to offer the dubitable explanation discussed above regarding the time and place of the child's conception. She tried to convince the OCS that she had good cause for not identifying the father by claiming disclosure of her "address or other identifying information may result in physical or emotional harm" to her or the child. The obvious error in her thinking is this: how would she feel there was any risk of physical or emotional harm to her or her son if she did not know who the father was? She signed that statement (Exhibit 1 Pages 24-26) and declared "that the information is true and correct to the best of my knowledge..." 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 denied Petitioner's application for FIP and imposed a non-cooperation sanction.

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

DJ/mc

A handwritten signature in black ink, appearing to read 'Darryl Johnson', with a long horizontal flourish extending to the right.

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]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Department Representative

[REDACTED]

Petitioner

[REDACTED]