



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 1, 2016
MAHS Docket No.: 16-013687
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 three-way telephone hearing was held on [REDACTED] [REDACTED] from Detroit, Michigan. The Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by [REDACTED] [REDACTED], Assistance Payments Worker. [REDACTED], Senior Child Support Specialist for the Office of Child Support, also appeared on behalf of the Department.

ISSUE

Did the Department properly remove the Petitioner from her Food Assistance Program (FAP) group due to 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 Petitioner was an ongoing recipient of FAP benefits.
2. The Department issued a Notice of Case Action on [REDACTED], decreasing the Petitioner's FAP benefits effective [REDACTED], due to the Petitioner's Non Cooperation with the OCS and due to a group member no longer living with Petitioner. Exhibit E.
3. The Department failed to include income reported by Petitioner when calculating the Petitioner's FAP benefits. The Department conceded that the FAP benefits, as

calculated, are incorrect. Exhibit E. The Department's electronic case file did not list rent verification or receipt of Petitioner's lease as being received. Exhibit C.

4. The Petitioner applied for Child Development and Care (CDC) Benefits on [REDACTED] Exhibit G.
5. The Department issued a Notice of Case Action dated [REDACTED], denying the Petitioner's CDC application effective [REDACTED]. The Department denied the Petitioner's CDC application for Non Compliance with the OCS, failure to return proof of address and missing check stubs. Exhibit I.
6. The OCS found the Petitioner in cooperation after blood testing of [REDACTED], a man she identified as the father of her child, on [REDACTED]. The OCS opened another case to determine if there was another possible father of her child; she was found in cooperation [REDACTED]. Exhibit F.
7. On [REDACTED], the OCS sent the Petitioner a First Customer Contact Letter. Exhibit J, pp. 1-2.
8. On [REDACTED] the OCS sent the Petitioner a Final Customer Contact Letter requesting that she contact the OCS by [REDACTED]. Exhibit K.
9. On [REDACTED], the OCS issued a Noncooperation Notice due to the Petitioner failing to respond to the OCS Customer Contact Letters. Exhibit L.
10. The Department sent a Verification Checklist (VCL) dated [REDACTED], with a due date of [REDACTED]. Exhibit A.
11. The Department received a letter from Petitioner's employer indicating wages of \$[REDACTED] weekly and that she is paid \$[REDACTED] hourly. This income was not included when determining FAP benefits. Exhibit D and Exhibit E.
12. The Petitioner requested a timely hearing on [REDACTED], 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 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.

In this case, the Department denied the Petitioner's application for CDC for failure to verify information and noncooperation with OCS. The Department also reduced/removed the Petitioner from her FAP group due to noncooperation with the OCS. The Department improperly calculated Petitioner's FAP benefits as no earned income was included. The Petitioner reported income; and income was verified by Petitioner's employer on [REDACTED]; and therefore, the FAP benefits must be recalculated to include the income. Exhibit D. In addition, after reviewing the Department electronic case file, it is determined that the Department did not receive a copy of the Petitioner's lease; and thus, if the Petitioner would like a shelter deduction, the Petitioner must provide a lease or rent receipt to the Department.

As regards the CDC application, it is determined that the Department properly denied the CDC application with regard to Petitioner failing to provide a rent receipt or lease based upon the evidence presented at the hearing through the Department's electronic case file, which demonstrated no rent verification was received.

In this case, the Petitioner was initially found in cooperation by the OCS after she identified the individual who she believed to be the father of the child in question and after whom she named her child. Thereafter, a blood test excluded this individual as the father. Thereafter, the OCS investigated whether there was another potential father and was advised in [REDACTED] of another potential person. The Petitioner provided information at that time and was placed in cooperation in [REDACTED]. The Petitioner remained in cooperation until the OCS updated its file and sent a new First Customer Contact Letter in [REDACTED] regarding the same potential person it reviewed in [REDACTED]. Exhibits J and K. The OCS placed the Petitioner in noncooperation effective May 23, 2016, based upon the recent inquiry of the same individual it reviewed in [REDACTED]. Exhibit L. The conception of the child in question occurred in [REDACTED].

The following is the applicable Department policy regarding requirement to be found in cooperation:

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). BEM 255 (April 1, 2015), p. 10.

CDC Income Eligible

- 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. BEM 255, p. 13.

FAP Member Disqualification

- 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.

In this case, the Petitioner testified credibly at the hearing that she provided all known information about an individual who she had sex with once during a period of several

weeks when she was no longer seeing her then boyfriend at the time. Petitioner only knew the first name of the person, which she provided to OCS and testified that she only saw him three times. She did provide an address to OCS where she met with the person and where they had sex. Thereafter, she never saw him again. She met the man through her cousin. Her cousin was contacted by the Petitioner, but she told Petitioner that she did not have a way of finding out who the man was as the person she was seeing who might know him she no longer sees. The Petitioner's child was born in [REDACTED].

At the hearing, the OCS indicated that the Petitioner was placed in noncooperation on [REDACTED], because she failed to provide all identifiable information of the potential father including, full legal name, date of birth, Social Security Number, current and last known address current and last known employer, physical description.

At the time she received the First Customer Contact Letter in [REDACTED], the Petitioner called OCS and was advised she needed to provide info on the second possible father of her child. Exhibit J. The Petitioner called back again on [REDACTED], with a first name, his brother's father's address, and that she went to elementary school with the man, and that she met him through her cousin who dated his friend. Petitioner testified that she never exchanged phone numbers with the man and had sex with him one time. The Petitioner also advised OCS that she hung out for a month, and she had sex with him one time and saw him three times at the most. The OCS could not verify a [REDACTED] living at the address given to them.

The Petitioner gave the OCS the following information regarding the second possible father of the child back on [REDACTED]: [REDACTED] was [REDACTED] pounds and [REDACTED] worked at [REDACTED] at the time and gave an address of [REDACTED] in [REDACTED]. Based upon this information, the Petitioner was again put in cooperation on [REDACTED].

The Petitioner also originally cooperated with the prosecutor and OCS and identified a man, her former boyfriend, as the father of the child in question and was also the man whose name she named her child after. Subsequently, after blood testing it was determined he was not the father. With respect to this person, the Petitioner cooperated fully with OCS.

Petitioner testified that she recently established a [REDACTED] page in hopes that the person who she knows as only [REDACTED] might contact her. She also testified that she went to elementary school with him. Overall, based upon the Petitioner's testimony, it is determined that she provided all known information about this person and did not fail to provide any known information about this person. The Petitioner last saw [REDACTED] in the beginning of [REDACTED], over seven years ago. The Petitioner testified that she saw [REDACTED] one time in the neighborhood at a store near the [REDACTED] house after she was no longer involved with him; and at that time, [REDACTED], she was unaware that she was pregnant when she saw him. Given these facts, it is determined that the

Petitioner has provided all the information she has available and should not remain in noncooperation.

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 did not act in accordance with Department policy when it determined that the Petitioner was in noncooperation as of [REDACTED].

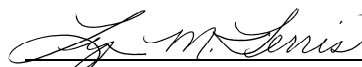
Accordingly, the Department's decision is

REVERSED with respect to finding the Petitioner in Noncooperation with Department policy child support requirements as regards her FAP, and;
REVERSED with respect to its calculation of the Petitioner's FAP benefits due to the Department's failure to include earned income reported by Petitioner; and
AFFIRMED with respect to the Department's denial of Petitioner's CDC application for failure to verify information.

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 recalculate the Petitioner's FAP benefits and shall include Petitioner's earned income and return Petitioner to the FAP group when calculating the FAP benefits in accordance with Department policy.
2. The Department shall remove the [REDACTED], noncooperation from the Petitioner's case record.

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]

Department Representative

[REDACTED]

Petitioner

[REDACTED]

[REDACTED]