



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 21, 2016
MAHS Docket No.: 16-014243
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 November 10, 2016, from Detroit, Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by [REDACTED], manager, and [REDACTED], lead specialist with the Office of Child Support (OCS).

ISSUE

The issue is whether MDHHS properly disqualified Petitioner from Food Assistance Program (FAP) eligibility due to a child support disqualification.

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 was an ongoing FAP benefit recipient.
2. In June 2016, Petitioner gave birth to the second child in her household.
3. In July 2016, Petitioner reported information to OCS, which was unable to lead to an identification of her child's father.
4. Petitioner's reporting to OCS was unreasonably inaccurate.
5. On [REDACTED], MDHHS determined Petitioner to be uncooperative with obtaining child support.

6. On [REDACTED], MDHHS determined Petitioner's FAP eligibility, effective September 2016, in part, based on Petitioner being uncooperative with obtaining child support.
7. On [REDACTED], Petitioner requested a hearing to dispute the child support disqualification concerning FAP eligibility.

CONCLUSIONS OF LAW

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. MDHHS (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. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner's hearing request did not have any boxes checked next to the various MDHHS programs identifying which program was disputed. Petitioner's hearing request statement did not reference any MDHHS programs for which a hearing may be granted. Petitioner's hearing request stated a dispute concerning "child support." "Child support" is not a MDHHS program for which a hearing may be granted. Petitioner's testimony somewhat clarified her intent.

Petitioner testified she requested a hearing, in part, to dispute a termination of Child Development and Care (CDC) benefits. It was not disputed Petitioner applied for CDC benefits in October 2016. Petitioner's hearing request was submitted to MDHHS on [REDACTED]. Petitioner could not have requested a hearing to dispute a denial of CDC that had not occurred as of the date of her hearing request submission. Thus, Petitioner's hearing request is not deemed to have included a dispute concerning a CDC application denial.

Petitioner testified MDHHS previously determined her to be uncooperative with obtaining child support. Petitioner testified she requested a hearing to dispute the determination.

MDHHS presented a Notice of Case Action (Exhibit 1, pp. 1-2) dated [REDACTED]. The notice stated Petitioner was approved for [REDACTED]/month in FAP benefits for a group size of 2 persons. The notice stated [REDACTED] was a decrease. The given reason for the benefit decrease was an alleged failure by a group member to comply with obtaining child support.

Petitioner testified she was the mother of 2 minor children (a group size of 3 persons). It was not disputed that MDHHS only factored a group size of 2 persons due to the child support disqualification imposed against Petitioner. Petitioner's hearing request will be

interpreted as a dispute concerning her cooperation with obtaining child support as it affects Petitioner's FAP eligibility.

[For FAP benefits,] 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. BEM 255 (April 2015), p. 1. Cooperation is a condition of eligibility. *Id.*, p. 9. Cooperation is required in all phases of the process to establish paternity and obtain support. *Id.* It includes all of the following (see *Id.*):

- 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).

MDHHS presented a First Customer Contact Letter (Exhibit 1, pp. 11-12) addressed to Petitioner and dated [REDACTED]. The letter requested paternal information concerning one of Petitioner's children.

MDHHS presented a "Final Customer Contact Letter" (Exhibit 1, pp. 7-8) addressed to Petitioner and dated [REDACTED]. The letter advised Petitioner that paternal information for one of her children was still needed.

MDHHS presented a Noncooperation Notice (Exhibit 1, pp. 5-6) addressed to Petitioner and dated [REDACTED]. The letter informed Petitioner she was now deemed unresponsive in obtaining child support.

MDHHS presented a Child Support Non-Cooperation – Summary (Exhibit 1, p. 3). The summary verified MDHHS imposed a running child support disqualification beginning [REDACTED].

Petitioner testified she thought she reported her child's paternal information to MDHHS on [REDACTED]. Petitioner seemed puzzled that she could be penalized for reporting the information only one day after MDHHS determined she was uncooperative. MDHHS testimony responded that Petitioner's reporting was not late. MDHHS testimony indicated Petitioner was timely with her reporting, however, her reporting was insufficient.

Testimony from the OCS lead specialist conceded Petitioner called OCS before [REDACTED], [REDACTED] and reported her child's father's name, last known address, and birthdate. The OCS specialist also testified that a search of their database uncovered no persons with the reported name and date of birth. Thus, OCS was unable to identify child's father for purposes of paternity.

For various reasons, there are occasions when a client is truly unable to possess information leading to the identity of a child's father. If a client accurately reports all known and reasonably learnable information to OCS about a child's father, the client should not be deemed uncooperative. This rule should hold true even when the reported paternal information is insufficient to identify the child's father. When reported information is insufficient to identify a child's father, a finding can be made about whether the client is accurately reporting information and/or undertaking reasonable efforts.

Petitioner testimony conceded she gave her child the last name of the child's father. Petitioner testified she did so because the child's father was involved when his child was born. Petitioner testified her child's father ceased parental involvement only two weeks after their child was born. Generally, a client who names a child after the father has enough information about the father to identify the father.

Petitioner's child was born [REDACTED]. The birth date was only one calendar month from when MDHHS asked Petitioner for paternal information. Generally, a client should have more accurate paternal information the closer the inquiry is to the child's date of birth.

Petitioner's testimony that she gave OCS all known information is difficult to appreciate when Petitioner was unable to provide sufficient information to identify the father so close in time to the child's birth. Petitioner's testimony was plausible, but not probable. A more likely explanation for Petitioner's information not leading to an identification is that Petitioner purposely gave inaccurate information or she has not undertaken reasonable efforts to obtain accurate information. It is found Petitioner was uncooperative with obtaining child support beginning [REDACTED].

Failure to cooperate without good cause results in disqualification. *Id.*, p. 2. Disqualification includes member removal, as well as denial or closure of program benefits... *Id.* As Petitioner was uncooperative with obtaining child support, it is found MDHHS properly disqualified Petitioner from FAP eligibility beginning September 2016.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly disqualified Petitioner from FAP eligibility beginning September 2016, due to not cooperating with obtaining child support. The actions taken by MDHHS are **AFFIRMED**.

CG/hw



Christian Gardocki

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]

Department Representative

[REDACTED]

Petitioner

[REDACTED]