



RICK SNYDER  
GOVERNOR

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

SHELLY EDGERTON  
DIRECTOR

[REDACTED]  
[REDACTED]  
[REDACTED]

Date Mailed: January 17, 2017  
MAHS Docket No.: 16-018254

[REDACTED]  
[REDACTED]

**ADMINISTRATIVE LAW JUDGE: Vicki Armstrong**

**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 - 273.18; 42 CFR 431.200 - 431.250; 45 CFR 99.1 - 99.33; and 45 CFR 205.10; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on January 11, 2017, from Lansing, Michigan. Petitioner personally appeared and testified.

The Department of Health and Human Services (Department) was represented by Hearing Facilitator [REDACTED] and Lead Worker [REDACTED], from the Office of Child Support. [REDACTED] and [REDACTED] testified on behalf of the Department. The Department submitted Exhibits A, B, C and D which were admitted into evidence. The record was closed at the conclusion of the hearing.

**ISSUE**

Did the Department properly deny Petitioner's application for the Food Assistance Program (FAP) based on her non-cooperation status with the Office of Child Support?

**FINDINGS OF FACT**

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On November 9, 2016, Petitioner applied for FAP. [Dept. Exh. A, 1-20].
2. On December 7, 2016, the Department issued Petitioner a Notice of Case Action denying her FAP application for failing to cooperate with the office of Child Support. [Dept. Exh. C, 1-3].

3. On November 28, 2016, Petitioner submitted a Request for Hearing contesting the FAP denial. [Hearing Summary].

### **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 only issue raised during the hearing in the above captioned matter, was whether Petitioner was barred from receiving FAP benefits due to her non-cooperation status with the Office of Child Support.

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, Mich Admin Code R 792.11001-11018. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his or her claim for assistance is denied or is not acted upon with reasonable promptness. Mich Admin Code R 792.11002.

Clients have the right to contest a Department decision affecting eligibility or benefit levels whenever they believe the decision is incorrect. BAM 600, p 1 (10/1/2016). The Department will provide an administrative hearing to review the decision and determine the appropriateness in accordance with policy. *Id.*

The Department's philosophy regarding Child Support is that families are strengthened when children's needs are met. BEM 255, p 1 (4/1/2015). 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, and the prosecuting attorney to establish paternity and/or obtain support from an absent parent. *Id.*

Clients 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. *Id.* Absent parents are required to support their children. *Id.* Support includes child support, medical support, and payment for medical care from any third party. *Id.* For purposes of this item, a parent who does not live with the child due solely

to the parent's active duty in a uniformed service of the U.S. is considered to be living in the child's home. *Id.*

Failure to cooperate without good cause results in disqualification. *Id.* at 2. Disqualification includes member removal, denial of program benefits or closure of program benefits, depending on the type of assistance. However, a pregnant woman who fails to cooperate may still be eligible for Medicaid. *Id.* at 2.

Exceptions to the cooperation requirement for FIP, CDC income eligible, Medicaid and FAP programs are allowed for all child support actions except failure to return court-ordered support payments received after the support certification effective date. *Id.* at 2. Good cause is granted only if requiring cooperation/support action is against the child's best interests, and there is a specific "good cause" reason. *Id.* at 3. If good cause exists, cooperation is excused as an eligibility requirement for the child involved, but it can still be required for another child in the same family. BEM 255.

Cooperation is a condition of eligibility. *Id.* at 9. The grantee and spouse, the specified relative/person acting as a parent and spouse, and the parent of the child for whom paternity and/or support action is required in the eligible group, are required to cooperate in establishing paternity and obtaining support, unless good cause has been granted or is pending. *Id.* Cooperation is required in all phases of the process to establish paternity and obtain support and 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 (e.g., testifying at hearings or obtaining genetic tests). *Id.*

The support specialist determines cooperation for required support actions. *Id.* at 10. Cooperation is assumed until negative action is applied as a result of non-cooperation being entered. The non-cooperation continues until a comply date is entered by the primary support specialist or cooperation is no longer an eligibility factor. *Id.* Bridges applies the support disqualification when a begin date of non-cooperation is entered and there is no pending or approved good cause. The disqualification is not imposed if any of the following occur on or before the timely hearing request date:

- . The Office of Child Support (OCS) records the comply date.
- . The case closes for another reason.
- . The non-cooperative client leaves the group.

- . Support/paternity action is no longer a factor in the child's eligibility (e.g., the child leaves the group).
- . Client cooperates with the requirement of returning support payments to the Department and the support is certified. *Id.* at 11.

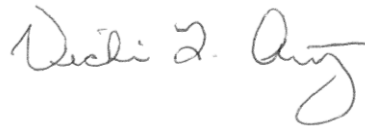
In this case, Petitioner testified that she had a house party where drinks and liquor were served. She stated that at "the end of the night, I was pretty messed up" and she did not remember anything at all. When asked if she remembered having sex, she answered, "nope."

As a result, the Administrative Law Judge finds that Petitioner did not establish a good cause reason for failing to cooperate with the Office of Child Support in that Petitioner does not even remember having sex and without such knowledge, it is unknown if the baby was conceived during the aforementioned house party.

### **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 FAP due to non-compliance with the Office of Child Support.

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



**Vicki Armstrong**

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

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