



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: February 21, 2017
MAHS Docket No.: 17-000555
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 three-way telephone hearing was held on February 16, 2017, from Lansing, Michigan. The Petitioner appeared on her own behalf. The Department of Health and Human Services (Department) was represented by Family Independence Manager [REDACTED] and Assistance Payments Case Manager [REDACTED], Lead Worker, appeared for the Office of Child Support. [REDACTED] interpreted between English and [REDACTED].

ISSUE

Did the Department properly reduce Petitioner's Family Independence Program (FIP) benefits?

Petitioner requested a hearing regarding her Food Assistance Program (FAP) benefits. The Department's witness testified that Petitioner's FAP was increased when her FIP was terminated. No negative action has been taken with her FAP and therefore it is a moot point that will not be adjudicated.

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 on-going FIP and FAP recipient.
2. On October 20, 2016, Petitioner gave birth to a baby girl, but did not identify the child's father.

3. Petitioner has lived in [REDACTED], Michigan, for ten years.
4. Petitioner has a ten-year-old son who speaks English and [REDACTED].
5. On December 4, 2016, the Department mailed to Petitioner a First Customer Contact Letter (Exhibit A, Pages 12-14), instructing her that she needed to respond within 10 days.
6. On December 14, 2016, the Department mailed to Petitioner a Final Customer Contact Letter (Pages 15-17), instructing her to contact the Department by December 22, 2016.
7. On December 24, 2016, the Department mailed to Petitioner a Noncooperation Notice (Pages 18-19) informing her that she was “considered to be noncooperative with the child support program” and her benefits would be affected if she did not show the Department that she had good cause for not contacting the Department.
8. A Notice of Case Action (Pages 4-7) was mailed on December 24, 2016, informing Petitioner that her FIP would be closed as of February 1, 2017 because she “failed to cooperate in establishing paternity or securing child support.”
9. On January 4, 2017, Petitioner filed a hearing request, protesting the closure of her FIP.

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.

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 Department’s philosophy and policy with respect to child support cooperation is found in BEM 255 (1/1/17) p. 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.”

“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.”

When it comes to FIP, CDC Income Eligible, MA and FAP,

“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.”

At page 9 of BEM 255, the applicant’s responsibility to cooperate with respect to child support is described more fully:

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).

The penalties for failure to cooperate are found at pages 13-14. The penalty in the FIP is: “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 had a child on October 20, 2016. She did not identify the child’s father to the Department. The Department contacted her with instructions that she needed to cooperate with the Department to help identify the child’s father. She was

given two chances to cooperate before action was taken. When she ignored the Department's letters, she left them with no choice but to reduce her benefits.

The OCS witness testified that Petitioner did not contact the Department to help identify the father until the pre-hearing conference. He said that she gave him a physical description of his estimated height and weight, his hair and eye color, his age, and even his first and last names. She said that the child was conceived through a "one-night stand". She told him first that the man was a friend of a female friend of hers, and then she said that she met the man first, and the female was a friend of his. During the hearing she testified that she met the man in a store in January 2016. He said he wanted to get to know her, so they exchanged telephone numbers. He came over to her home with the female friend a week later. Petitioner and the man went to a hotel, where the child was conceived. She further testified that the father and his female friend were from Nebraska.

Petitioner's explanation is not credible. She explained that she did not respond to the letters from the OCS because they were in English, which she does not speak. She said that she has no friends who could translate them for her, even after living in [REDACTED] [REDACTED] for 10 years. Later, she said her 10-year-old son translates letters for her, and she has someone from the [REDACTED] County Health Department who visits her every month who will interpret papers for her. She also said that, after she received the letters, she "got nervous and put them away." If she cannot read them, and if she did not have someone read them for her, the obvious question is why would she be nervous about them?

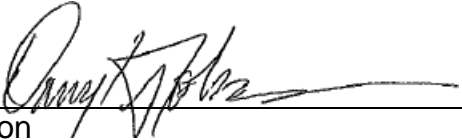
Because of Petitioner's lack of credibility, her explanation for her non-cooperation with the OCS is not sufficient to show that she had good cause. Furthermore, her description of the father is questionable. Based upon her testimony and the toher evidence that was provided, the conclusion is that she has information about the father that she is not disclosing. Because she failed to cooperate, the Department was left with no option but to close her FIP.

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 closed Petitioner's FIP.

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

DJ/nr



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

Department Representative

[REDACTED]

DHHS

[REDACTED]

Petitioner

[REDACTED]