



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.: 17-000686
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: C. Adam Purnell

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 15, 2016, from Lansing, Michigan. Petitioner appeared and represented herself. [REDACTED] Eligibility Specialist, and [REDACTED] Assistance Payments Supervisor, appeared on behalf of the Department of Health and Human Services (Department). [REDACTED] Lead Worker with the Office of Child Support (OCS) testified via telephone as a witness for the Department.

The Department offered the following exhibits which were marked and admitted into evidence: **Department's Exhibit 1:** Hearing Summary, Request for Hearing, Child Support Noncooperation Summary, Child Support Worker/Contact Information, and Health Care Coverage Determination Notice; **Department's Exhibit 2:** Bridges Absent Parent-Summary; **Department's Exhibit 3:** Bridges Child Support Noncooperation Summary; **Department's Exhibit 4:** OCS Administrative Hearing Documents, Supplemental Hearing Summary Noncooperation Explanation of Action Taken by Office of Child Support, Statement of Assisted Reproduction and Lack of Information, Noncooperation Notice, Final Customer Contact Letter, and First Customer Contact Letter; **Department's Exhibit 5:** Notice of Case Action; pages 1 through 21].

Petitioner did not offer any exhibits into evidence.

The record closed at the conclusion of the hearing.

ISSUE

Did the Department properly sanction Petitioner's Food Assistance Program (FAP) and Medical Assistance (MA) benefits because Petitioner failed to cooperate with the Office of Child Support (OCS) to establish paternity and/or obtain support from an absent parent?

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 active for FAP and MA (Ad Care) benefits. [Hearing Testimony].
2. Petitioner is the custodial parent of her minor child "Child A" (DOB: [REDACTED]). [Hrg. Test.].
3. Petitioner received a monthly FAP allotment of \$ [REDACTED] and had a group size of 2, which consisted of Petitioner and Child A. [Hrg. Test.].
4. The Department's [REDACTED] County office ("local office") did not have information concerning the identity of Child A's biological father and determined that he was an absent parent (not in Petitioner's home). [Department's Exhibit 2, p. 7].
5. The Department local office referred Petitioner's case to its Office of Child Support (OCS) in order to establish paternity and/or child support regarding Child A's absent parent. [Hrg. Test.].
6. On September 19, 2016, the OCS mailed Petitioner a First Customer Contact Letter, requesting Petitioner assist the OCS begin a child support case concerning Child A's absent parent by visiting a website or by calling the OCS telephone number provided on the notice. The letter also requested that Petitioner provide information concerning Child A's absent parent including, but not limited to: the full name, date of birth, social security number (if known), last known address and/or employer and/or physical description. Petitioner was provided with 10 days to take the above action. The Department properly mailed the letter in the due course of business to Petitioner's last known address and the letter was not returned as undeliverable. [Dept. Exh. 4, pp. 18-19].
7. Petitioner did not contact the OCS or enter the requested information on the website within the 10 day time period. [Hrg. Test.].
8. Petitioner's mailing address changed after the September 19, 2016, letter was sent. The Department properly updated Petitioner's most recent address on their computer system. [Hrg. Test.].

9. On September 30, 2016, the OCS mailed a Final Customer Letter to Petitioner at her last known address. In this letter, the OCS again requested Petitioner contact the OCS or visit the website and provide information concerning Child A's absent parent. The letter further indicated that Petitioner had until October 7, 2016, to contact OCS by phone or to enter the information concerning the absent parent on the website. The letter indicated that failure to cooperate with OCS may result in the reduction of, or loss of, program benefits. The Department properly mailed the letter in the due course of business to Petitioner's last known address and the letter was not returned as undeliverable. [Dept. Exh. 4, pp. 15-16].
10. Petitioner did not provide the requested information on the website or contact the OCS by October 7, 2016. [Hrg. Test.].
11. On October 9, 2016, the OCS mailed Petitioner a Noncooperation Notice, which advised Petitioner that she failed to respond to the first and second contact letters and failed to cooperate with OCS. The letter also indicated that Petitioner would face reduction or closure of her case benefits unless she provides a valid good cause reason. The Department properly mailed the letter in the due course of business to Petitioner's last known address and the letter was not returned as undeliverable. [Dept. Exh. 4, pp. 13-14].
12. On October 9, 2016, the Department formally placed Petitioner in non-cooperation status. [Dept. Exh. 3, p. 8].
13. On November 22, 2016, Petitioner called OCS and reported that she did not have any information about the absent parent (Child A's biological father). During this telephone conversation, Petitioner stated that she had a girlfriend and the two of them wanted to have a child so they located a local free sperm donor from the internet. Petitioner stated that Child A was conceived via at-home artificial insemination and that she never obtained any contact information from the sperm donor. [Hrg. Test.].
14. On December 5, 2016, the Department mailed Petitioner a Health Care Coverage Determination Notice (DHS-1606), which determined that Petitioner was not eligible for health care coverage effective January 1, 2017, due, in part, to failure to cooperate with child support requirements. [Dept. Exh. 1, pp. 5-6].
15. On December 5, 2016, the Department mailed Petitioner a Notice of Case Action (DHS-1605), which closed Petitioner's FAP case effective January 1, 2017, due to failure to cooperate with child support requirements. The notice indicated that Child A was still eligible for FAP benefits in the amount of \$ [REDACTED] per month. [Dept. Exh. 5, pp. 20-21].
16. On January 11, 2017, Petitioner requested a hearing via email to challenge the Department's decision to find that she failed to comply with the child support requirements. [Dept. Exh. 1, p. 2].

17. On January 12, 2017, the OCS sent an email to the local office with a blank Statement of Assisted Reproduction and Lack of Information (DHS-998) form to forward to Petitioner. The local office received the email and DHS-998, printed the DHS-998 and properly mailed it to Petitioner at her last known address in the due course of business. The DHS-998 was not returned as undeliverable. [Dept. Exh. 4, pp. 11-12].
18. Petitioner failed to return a completed DHS-998 form to the Department or to OCS. [Hrg. Test.].

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 Medical Assistance (MA) program is established by Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. The Department (formerly known as the Department of Human Services) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

In the instant matter, Petitioner requested a hearing because the Department closed her FAP case (which resulted in removal from the FAP group) and closed her health care coverage (MA-Ad Care). The Department contends that the above benefit closures were appropriate because Petitioner failed to cooperate with child support obligations concerning the identity of Child A's absent parent/biological father. According to the Department, Petitioner failed to timely respond to the contact letters and then provided an unsatisfactory explanation as to why she was unable to obtain any information about Child A's father.

Department policy provides that 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. Absent parents are

required to support their children. Support includes **all** of the following: (1) child support; (2) medical support; and payment for medical care from any third party. BEM 255 (4-1-2015), p. 1. [Emphasis in original].

For certain programs including MA and FAP, 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, p. 1.

Cooperation is required in all phases of the process to establish paternity and obtain support which includes **all** of the following: (1) contacting the support specialist when requested; (2) providing all known information about the absent parent; (3) appearing at the office of the prosecuting attorney when requested; (4) taking any actions needed to establish paternity and obtain child support (including but not limited to testifying at hearings or obtaining blood tests). BEM 255, p. 9. [Emphasis in original].

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. BEM 255, p. 2.

The Department will grant good cause **only** when both of the following are true: (1) requiring cooperation/support action is against the child's best interests; and (2) there is a specific good cause reason. BEM 255, p. 3. [Emphasis in original].

For certain programs, including MA and FAP, there are two types of good cause:

1. Cases in which establishing paternity/securing support would harm the child. In this regard, the Department does not require cooperation/support action in any of the following circumstances:

- The child was conceived due to incest or forcible rape.
- Legal proceedings for the adoption of the child are pending before a court.
- The individual is currently receiving counseling from a licensed social agency to decide if the child should be released for adoption, **and** the counseling has **not** gone on for more than three months.

2. Cases in which there is danger of physical or emotional harm to the child or client. Physical or emotional harm may result if the client or child has been subject to or is in danger of:

- Physical acts that resulted in, or threatened to result in, physical injury.
- Sexual abuse.
- Sexual activity involving a dependent child.

- Being forced as the caretaker relative of a dependent child to engage in non-consensual sexual acts or activities.
- Threats of, or attempts at, physical or sexual abuse.
- Mental abuse.
- Neglect or deprivation of medical care. BEM 255, pp. 3-4.

For 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: (1) grantee (head of household) and spouse; (2) specified relative/individual acting as a parent and spouse; and (3) parent of the child for whom paternity and/or support action is required. Failure to cooperate without good cause results in disqualification of the individual who failed to cooperate. BEM 255, p. 9.

In this case, Petitioner provided sworn testimony at the hearing that she had absolutely no information about Child A's biological father. Specifically, Petitioner testified that she and her girlfriend, utilizing a Google search, found a local man named "██████"¹ who indicated that he was willing to donate free sperm so they could conceive a child. Petitioner stated that she communicated with "██████" over the telephone and the two of them agreed to meet in the parking lot of a local shopping mall where he handed her a plastic bottle containing a sample of his semen. According to Petitioner, "██████" verbally assured her that he was disease and/or drug-free and did not have any genetic disorders. Petitioner testified at the hearing that this meeting occurred sometime between December 14 and December 19. Petitioner then stated she rushed home and immediately inseminated herself with "██████" sample. Petitioner also said that she did not have any documentation and she only met "██████" on one occasion. Petitioner said that she was unable to offer any additional information about "██████" to the OCS.

The OCS lead worker testified that Petitioner failed to timely and properly respond to the contact letters. The OCS lead worker also stated that Petitioner, for the first time, called the OCS on November 22, 2016, and reported that she did not know the identity of the absent father because she was artificially inseminated via an online free sperm donor. The OCS lead worker further stated that the OCS mailed Petitioner the letters in the due course of business and that none of the letters were returned as undeliverable. She also stated that she personally emailed a blank Statement of Assisted Reproduction and Lack of Information (DHS-998) form to forward to Petitioner. The Department Eligibility Specialist testified that she received the email and that she printed the DHS-998 form and mailed it to Petitioner. According to the Department and OCS, Petitioner failed to return the DHS-998 form.

¹ Petitioner stated at the hearing that she could not recall ████████ last name and did not obtain his address or telephone number.

Testimony and other evidence must be weighed and considered according to its reasonableness. *Gardiner v Courtright*, 165 Mich 54, 62; 130 NW 322 (1911); *Dep't of Community Health v Risch*, 274 Mich App 365, 372; 733 NW2d 403 (2007). The weight and credibility of this evidence is generally for the fact-finder to determine. *Dep't of Community Health*, 274 Mich App at 372; *People v Terry*, 224 Mich App 447, 452; 569 NW2d 641 (1997). Moreover, it is for the fact-finder to gauge the demeanor and veracity of the witnesses who appear before him, as best he is able. See, e.g., *Caldwell v Fox*, 394 Mich 401, 407; 231 NW2d 46 (1975); *Zeeland Farm Services, Inc v JBL Enterprises, Inc*, 219 Mich App 190, 195; 555 NW2d 733 (1996).

This Administrative Law Judge has carefully considered and weighed the testimony and other evidence in the record. This case boils down to a credibility contest between Petitioner and the Department. The Administrative Law Judge finds that the testimony from the Department and the OCS workers was more credible than Petitioner as it was more consistent with documentation in the record. Moreover, Petitioner's story was simply not persuasive. The undersigned finds that Petitioner's account of events is not reasonable. The entire record, including the credible testimony, shows that Petitioner did not cooperate with OCS concerning the identity of Child A's biological father. According to BEM 255 cited above, cooperation with the paternity and child support is a condition of eligibility for FAP and MA. Here, the Department was proper to find that Petitioner failed to cooperate with the OCS because the story that Petitioner has offered is not well-grounded.

First, there is no dispute that Petitioner received and failed to respond to the September 19, 2016, and September 30, 2016, contact letters. The hearing testimony that the Department and OCS both promptly updated their computer system when Petitioner had a change of address is credible. This alone, shows noncompliance with the OCS. Second, the undersigned is not persuaded that Petitioner was unable to provide any documentation or even a website address to the OCS. Petitioner stated that she met "██████" after making arrangements over the telephone to meet at a local shopping mall to pick up the sperm sample. However, Petitioner did not offer to assist OCS by providing her telephone records from the relevant time period (December 14 through December 19) that would show the number that she used when she had contacts with "██████". The Department should not have to specifically request this information. Rather than offer assistance, Petitioner provided resistance. She also could have offer to provide the OCS with possible website addresses that she used or lists of potential free sperm donors from the local area that she used when she purportedly conducted the online search. That way, the Department may be able to identify individuals named "██████" in the local area who have offered to donate free sperm samples. However, Petitioner elected to take the position that it was simply impossible to obtain the identity of Child A's father. In addition, Petitioner has failed to meet any of the above requirements for good cause as defined by BEM 255, pp. 3-4. The Department acted properly when it failed to accept Petitioner's version of events.

Based on the material, competent, and substantial evidence on the whole record, this Administrative Law Judge finds that the Department properly closed and/or reduced

Petitioner's FAP benefits and closed her MA (Ad Care) case because she failed to cooperate with the OCS concerning paternity and/or child support.

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.

DECISION AND ORDER

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

IT IS SO ORDERED.

CAP/mc



C. Adam Purnell

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]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

DHHS

[REDACTED]

Petitioner

[REDACTED]