



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: April 19, 2017
MAHS Docket No.: 16-015145
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Michael J. Bennane

AMENDED 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 [REDACTED], from [REDACTED] Michigan. The Petitioner was represented by [REDACTED]. The Department of Health and Human Services (Department) was represented by [REDACTED].

At the conclusion of the hearing, a Hearing Decision was issued by Administrative Law Judge Michael J. Bennane and mailed on [REDACTED] [REDACTED], which is hereby **AMENDED** to correct the Conclusions of Law, paragraph 8.

ISSUE

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

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 [REDACTED], the Department restored the Petitioner's FIP benefits.
2. Ostensibly, the Petitioner's FIP benefits were closed due to the Office of Child Support (OCS) finding of noncooperation.
3. On [REDACTED], the Petitioner requested a hearing to protest the closure of her FIP benefits and a finding of noncooperation with the OCS.

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.

In this case, the Petitioner requested a hearing because during a previous hearing, the Department had ordered to supplement for missed benefits. The Petitioner testified that the Department had failed to supplement for FIP benefits that the Department was ordered to provide after the first hearing on this issue.

There is no evidence in the file that the Department had complied with the previous order to supplement for missed FIP benefits. Furthermore, there is no documentation in the file to show that the Department notified the Petitioner of its negative FIP action.

Testimony at the hearing, provided information that the Department told the Petitioner that OCS was going to find her in noncooperation for failing to identify the father of her child. This is the reason why the Petitioner requested a hearing on her OCS noncooperation.

The Petitioner was sworn in at this hearing and questioned about her knowledge of her child's father.

The Petitioner testified, under oath, that she had no further information to provide the Department with further information about the father of her child.

In *Black v Dept of Social Services*, 195 Mich App 27 (1992), the Court of Appeals addressed the issue of burden of proof in a non-cooperation finding. Specifically, the court in *Black* ruled that to support a finding of non-cooperation, the agency has the burden of proof to establish that the mother (1) failed to provide the requested verification and that (2) the mother knew the requested information. The *Black* court also emphasized the fact that the mother testified under oath that she had no further information, and the agency failed to offer any evidence that the mother knew more than she was disclosing. *Black* at 32-34.

The present case presents similar obstacles to identifying the father of her child. Under the circumstances presented here, the mother of the child in question testified under oath that she had no further information about the father of her child.

DECISION AND ORDER

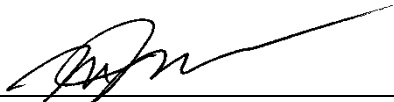
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department **did not** act in accordance with Department policy when it failed to accept the Petitioner's statement under oath that she knew nothing further about the father of her child.

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

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. Reinstate the Petitioner's FIP benefits back to their closure and cause them to correspond with the FIP supplement and benefits previously supported.

MJB/jaf



Michael J. Bennane
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
PO Box 30639
Lansing Michigan 48909-8139

DHHS

[REDACTED]
[REDACTED]
[REDACTED]

Department Representative

[REDACTED]
[REDACTED]
[REDACTED]

Petitioner

[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
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