



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

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Date Mailed: May 4, 2017
MAHS Docket No.: 17-003917
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Jacquelyn A. McClinton

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 ██████████ from Detroit, Michigan. The Petitioner was represented by Petitioner. The Department of Health and Human Services (Department) was represented by ██████████ Eligibility Specialist; ██████████, Family Independence Manager; and ██████████ Lead Worker with the Office of Child Support (OCS).

ISSUE

Did the Department properly decrease Petitioner's Food Assistance Program (FAP) benefits effective ██████████ for failing to cooperate with the OCS?

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 is an ongoing FAP recipient.
2. On ██████████, Petitioner gave birth to her son.
3. Beginning ██████████ ██████████ ██████████, the OCS sent Petitioner a series of correspondence requesting that she provide information relating to the identity of the father of her son.

4. On [REDACTED], Petitioner completed a Child Support Response Form in which she indicated that the identity of the father of her son was unknown.
5. On [REDACTED], the Department sent a Verification Checklist (VCL) to Petitioner instructing her to contact the OCS.
6. On [REDACTED], Petitioner filed a Claim of Good Cause – Child Support in which she stated that her son was conceived as the result of a sexual assault.
7. On [REDACTED], the Department sent Petitioner a second VCL, requesting that she supply proof in support of her claim of good cause.
8. Petitioner failed to provide the requested proofs and on [REDACTED], the Department sent Petitioner a Notice of Case Action which notified Petitioner that she had been removed from the FAP group and her FAP benefits decreased due to her failure to cooperate with the OCS.
9. On [REDACTED] [REDACTED] [REDACTED], Petitioner filed a Request for Hearing disputing the Department's action.

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.

Additionally, Department policy requires the custodial parent of children to 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 (January 2017), p. 1.

In this case, Petitioner gave birth to her son on [REDACTED]. The Department immediately began requesting that Petitioner provide information regarding the father of her child. The Department testified that Petitioner provided inconsistent statements and failed to file a police report. The Department further found Petitioner's statement regarding the night of conception not credible.

Petitioner testified that she went to a bar on [REDACTED], alone, to have a few drinks. Petitioner further testified that while there were some patrons in the bar, the bar was not full. Petitioner testified that there were no [REDACTED] men in the bar and that she never left her drink unattended. Petitioner stated that she does not know how she arrived at home that evening. When she awoke the following morning, she was in her pajamas. Petitioner testified that nothing seemed to be wrong with her physically and that there were no signs of sexual activity. Petitioner testified that she checked her purse and that none of her belongings were missing or out of place. Petitioner indicated that she only began to piece what occurred on that night together when she learned that she was pregnant. Petitioner further stated that her child was bi-racial and she believed that her son's father was [REDACTED].

The Department testified that Petitioner initially indicated that she went to a bar and believed that someone must have slipped something in her drink. The Department testified that in a later conversation, Petitioner stated that she was at a party and someone must have slipped something in her drink.

Petitioner stated that she was relying on Department policy which states if written evidence does **not** exist, document why none is available and determine if the claim is credible. BEM 255, p. 5. The Department indicated that it requested that Petitioner file a police report given that she claimed to be victim of a sexual assault and that this would have provided written evidence. Petitioner indicated that she did not file a police report because she did not remember anything. However, Petitioner remember quite a few facts which may have been helpful to the police. Petitioner remembered the name of the bar as well as the exact date and appropriate time she was at the bar.

The policy cited by Petitioner goes on to direct the Department to base credibility determination on available information, including client statement and/or collateral contacts with individuals who have direct knowledge of the client's situation. *Id.* In this case, the Department determined Petitioner to lack credibility. The undersigned agrees. To believe Petitioner, one would have to believe that someone in the bar put something in her drink even though she never left her drink unattended. One would have to believe that someone who sexually assaulted Petitioner knew where she lived, drove her home, sexually assaulted her, located the place in which she kept her pajamas, put the pajamas on Petitioner and left the home without taking anything out of the home.

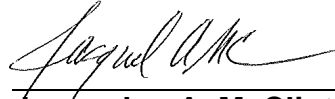
Petitioner testified herself that there was absolutely no indication that she had engaged in sexual intercourse on the night of [REDACTED]. Additionally, at the hearing, Petitioner was adamant that the conception took place on [REDACTED]. However, when she completed the [REDACTED] Child Support Response Form, in the box relating to conception date, Petitioner entered [REDACTED]. It appears that when Petitioner completed the Child Support Response form, she was unsure of the date of conception. As such, it is found that the Department reasonably determined that Petitioner's statements regarding the identity of the father of her son lacked credibility. Accordingly, it is found that the Department properly decreased Petitioner's FAP benefits to \$ [REDACTED] per month effective [REDACTED].

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 decreased Petitioner's FAP benefits to \$ [REDACTED] per month effective [REDACTED].

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

JM/jaf



Jacquelyn A. McClinton
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]

Petitioner

[REDACTED]
[REDACTED]
[REDACTED]

DHHS

[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]