



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: July 6, 2017
MAHS Docket No.: 17-007341
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Eric J. Feldman

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; 42 CFR 438.400 to 438.424; 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 [REDACTED], from Detroit, Michigan. Petitioner was present for the hearing and represented herself. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearings Facilitator. Also, [REDACTED], Lead Child Support Specialist, participated via telephone from the Office of Child Support ("OCS").

ISSUE

Did the Department properly disqualify Petitioner from her Food Assistance Program (FAP) benefits due to her failure to establish paternity and/or obtain 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. Petitioner was an ongoing recipient of FAP benefits (she was on her mother's FAP case).
2. On [REDACTED], the OCS sent Petitioner a First Customer Contact Letter. [Exhibit A, pp. 12-13.]
3. Petitioner failed to respond to the first contact letter.

4. On [REDACTED], the OCS sent Petitioner a Final Customer Contact Letter. [Exhibit A, pp. 16-17.]
5. On [REDACTED], Petitioner contacted OCS and provided her known information about the absent parent.
6. The OCS could not locate the absent parent based on the information Petitioner provided during the [REDACTED], contact.
7. Effective [REDACTED], Petitioner was in noncooperation with the OCS because she has failed to provide OCS with identifying information about the absent parent. [Exhibit A, pp. 5 and 9.]
8. On [REDACTED], the OCS sent Petitioner a Noncooperation Notice. [Exhibit A, p. 9.]
9. On [REDACTED], Petitioner contacted the OCS and provided her known information about the absent parent.
10. On [REDACTED], the Department sent Petitioner's mother a Notice of Case Action notifying her that her FAP benefits would increase to \$ [REDACTED] effective [REDACTED]; but that Petitioner was disqualified from the FAP group due to her noncooperation with the OCS. [Exhibit B, pp. 1-3.]
11. On [REDACTED], Petitioner contacted the OCS and provided her known information about the absent parent.
12. On [REDACTED], Petitioner contacted the OCS and provided her known information about the absent parent.
13. The OCS still could not locate the absent parent based on the information provided by Petitioner. [Exhibit A, p. 5.]
14. On [REDACTED], Petitioner filed a hearing request, protesting the Department's action. [Exhibit A, pp. 2-3.]

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.

Preliminary matter

As a preliminary matter, Petitioner also appeared to dispute the Department's failure to add her child to her case. However, the undersigned Administrative Law Judge (ALJ) reviewed Petitioner's hearing request and discovered that she was only disputing her noncooperation with OCS issue. [Exhibit A, pp. 2-3.] As such, the undersigned lacks the jurisdiction to address Petitioner's dispute with the member add request because she fails to dispute this issue in the hearing request. See BAM 600 (April 2017), pp. 1-6. The undersigned will only address the OCS issue below:

Office of Child Support

Families are strengthened when children's needs are met. BEM 255 (January 2017), p. 1. 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. BEM 255, p. 1.

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.

Failure to cooperate without good cause results in disqualification. BEM 255, p. 2 and pp. 2-7 (good cause policy). Disqualification includes member removal, as well as denial or closure of program benefits, depending on the type of assistance (TOA). BEM 255, p. 2.

Cooperation is a condition of eligibility. BEM 255, p. 9. Cooperation is required in all phases of the process to establish paternity and obtain support. BEM 255, p. 9. 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).

BEM 255, p. 9.

For FAP cases, failure to cooperate without good cause results in disqualification of the individual who failed to cooperate. BEM 255, p. 14. The individual and his/her needs are removed from the FAP Eligibility Determination Group (EDG) for a minimum of one

month. BEM 255, p. 14. The remaining eligible group members will receive benefits. BEM 255, p. 14.

In this case, the OCS specialist indicated that Petitioner had contacted OCS on four separate occasions regarding the absent parent. On [REDACTED], Petitioner provided the absent parent's name, date of birth, and city of residence. [Exhibit A, p. 5.] However, the OCS specialist testified it was unable to locate anyone with matching information. [Exhibit A, p. 5.] On [REDACTED], Petitioner provided the OCS with the name, date of birth, and added that she met him through mutual friends. [Exhibit A, p. 5.] On [REDACTED], the OCS specialist testified that Petitioner informed the OCS where they met, they dated for about 3 months, what vehicle he drove, and the street name where he lived. [Exhibit A, p. 5.] And finally on [REDACTED], the OCS specialist testified that Petitioner informed the OCS where they met at another location name, they dated for about 3-4 months, and provided a different street name where he lived. [Exhibit A, p. 5.] Despite all of these contacts, the OCS specialist indicated that none of the information provided by Petitioner has led to identifying an existing person. [Exhibit A, p. 5.] Thus, the OCS specialist argued that Petitioner is still in noncooperation with OCS for her failure to provide identifying information about the absent parent.

In response, Petitioner did not dispute the OCS specialist's testimony, other than she did not date him for 3-4 months; but instead, they knew and/or spoke to one another off and on for 3-4 months. Petitioner argued that she has attempted to provide OCS will all known information about the absent parent and has been unable to locate him. She testified she had spoken with mutual friends, but she has been unsuccessful.

Based on the foregoing information and evidence, the Department improperly disqualified Petitioner from her FAP benefits effective [REDACTED]. The Department/OCS argues that Petitioner has failed to provide identifying information about the absent parent and as a result, she is in noncooperation with the OCS. Petitioner argued, though, that she has attempted to provide OCS will all known information about the absent parent and has been unable to locate him. The undersigned agrees with Petitioner's argument. Petitioner has more than on one occasion contacted the OCS and provided any information that she knows about the absent parent, even if the OCS has been unable to locate him. BEM 255 states that cooperation is a condition of eligibility, which includes contacting the support specialist when requested and providing all known information about the absent parent. BEM 255, p. 9. In the present case, Petitioner cooperated with the OCS because she contacted the OCS specialist on more than one occasion and provided all known information about the absent parent. Because the evidence establishes that Petitioner has been contacting OCS when requested and providing all known information about the absent parent, the Department improperly disqualified her from her FAP benefits effective [REDACTED]. BEM 255, pp. 1-14.

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 improperly disqualified Petitioner from her FAP benefits effective [REDACTED].

Accordingly, the Department's FAP 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. Remove any noncooperation sanction imposed by the Office of Child Support back to the date Petitioner was last found to be in "noncooperation", which is [REDACTED]
2. Remove Petitioner's FAP disqualification effective [REDACTED], ongoing;
3. Recalculate the FAP budget for [REDACTED], ongoing;
4. Issue supplements to Petitioner for any FAP benefits she was eligible to receive but did not from [REDACTED], ongoing; and
5. Notify Petitioner of its decision.

EJF/jaf



Eric J. Feldman
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]
[REDACTED]