



RICK SNYDER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

SHELLY EDGERTON  
DIRECTOR

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Date Mailed: August 1, 2017  
MAHS Docket No.: 17-007278  
Agency No.: ██████████  
Petitioner: ██████████

**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 ██████████, from Detroit, Michigan. Petitioner was present for the hearing and represented herself. The Department of Health and Human Services (Department) was represented by ██████████ ██████████, Hearings Facilitator. Also, the Department's witness, ██████████, a Special Assistant Prosecutor with the ██████████ County Friend of the Court, participated by telephone for the hearing and provided testimony.

**ISSUE**

Did the Department properly deny Petitioner's State Emergency Relief (SER) application dated ██████████, for rent to prevent eviction?

**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 involved in two court cases with the alleged absent parent to determine Child A's (date of birth: ██████████) biological father.
2. Because of the court involvement, both Petitioner and the alleged absent parent were required to obtain genetic testing in order to determine if the alleged absent parent was the biological father.

3. The alleged absent parent, who is currently incarcerated, conducted his genetic testing, but Petitioner did not obtain her genetic testing.
4. On [REDACTED], Petitioner was scheduled to obtain genetic testing, but she failed to appear.
5. On [REDACTED], Petitioner was scheduled to obtain genetic testing, but she failed to appear.
6. On [REDACTED], Petitioner was placed in non-cooperation with the Office of Child Support (OCS) due to her failure to attend the genetic testing scheduled on [REDACTED], and [REDACTED].
7. On [REDACTED], Petitioner contacted OCS to claim good cause and was advised on how to proceed; and she was asked to remain on hold for the phone call, but the phone was disconnected. OCS called her back and left her a voicemail on how to proceed with a claim for good cause, but the Department's system does not show any good cause was ever initiated or found.
8. On [REDACTED], Petitioner was scheduled to obtain genetic testing, but she failed to appear.
9. On [REDACTED], the first court case was dismissed for Petitioner's failure to cooperate with genetic testing.
10. On [REDACTED], Petitioner contacted the Department, who in turn contacted the [REDACTED] Count Friend of Court (the Court) and advised the Court that Petitioner would comply with the genetic testing.
11. Because Petitioner advised she would comply with the genetic testing, another court case was initiated involving Petitioner and the alleged absent parent.
12. On [REDACTED], Petitioner again inquired into a good cause claim with OCS.
13. On [REDACTED], Petitioner applied for SER assistance.
14. On [REDACTED], the Department sent Petitioner an SER Decision Notice informing her that her SER application dated [REDACTED], was denied because she or a group member failed to cooperate with child support requirements. [Exhibit A, p. 2.]
15. On [REDACTED], Petitioner filed a hearing request, protesting the Department's action. [Exhibit A, pp. 4-5.]
16. On [REDACTED], Petitioner was scheduled to obtain genetic testing, but she failed to appear.

17. On [REDACTED], Petitioner was scheduled to obtain genetic testing, but she failed to appear.
18. On [REDACTED], Petitioner was scheduled to obtain genetic testing, but she failed to appear.
19. Because Petitioner has still failed to appear for her genetic testing, her non-cooperation was not removed.

### **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 State Emergency Relief (SER) program is established by the Social Welfare Act, MCL 400.1-.119b. The SER program is administered by the Department (formerly known as the Department of Human Services) pursuant to MCL 400.10 and Mich Admin Code, R 400.7001-.7049.

As background, Petitioner was involved in two court cases with the alleged absent parent in order to determine Child A's biological father. The Department's witness testified that based on the alleged absent parent's answer to the court complaint, Petitioner was required to obtain genetic testing as well as the alleged absent parent, in order to determine if he was the biological father of Child A. The alleged absent parent, who is currently incarcerated, conducted his genetic testing, but Petitioner did not obtain her genetic testing.

In regards to the first case, Petitioner was scheduled to obtain genetic testing on [REDACTED], and on [REDACTED], but she failed to appear for both test dates. As such, on [REDACTED], Petitioner was placed in non-cooperation with OCS due to her failure to attend the genetic testing.

On [REDACTED], Petitioner contacted OCS to claim good cause and was advised on how to proceed; and she was asked to remain on hold for the phone call, but the phone was disconnected. OCS called her back and left her a voicemail on how to proceed with a claim for good cause, but the Department's system does not show any good cause was ever initiated or found.

On [REDACTED], Petitioner was also scheduled to obtain genetic testing, but she failed to appear. On [REDACTED], the first court case was dismissed for Petitioner's failure to cooperate with genetic testing.

On [REDACTED], Petitioner contacted the Department, who in turn contacted the Court and advised the Court that Petitioner would comply with the genetic testing.

Because Petitioner advised she would comply with the genetic testing, another court case was initiated involving Petitioner and the alleged absent parent.

Before Petitioner was scheduled again for genetic testing, she again mentioned good cause with OCS on [REDACTED]. Subsequently, she applied for SER assistance on [REDACTED]. On [REDACTED], the Department sent Petitioner an SER Decision Notice informing her that her SER application was denied because she or a group member failed to cooperate with child support requirements. [Exhibit A, p. 2.] As a result, Petitioner filed a hearing request, protesting the SER denial. After the application, Petitioner had three scheduled dates to conduct the genetic testing, but she again failed to appear. Thus, the Department's witness argued that because Petitioner has still failed to appear for her genetic testing, her non-cooperation was not removed.

In response, Petitioner did not dispute that she did not attend the genetic testing. She testified that she did not attend because the alleged absent parent was not Child A's biological father. Furthermore, she argued that the hearing for the genetic testing was dismissed in its entirety in December of 2016. [Exhibit A, p. 4.] She appeared to indicate that she sought a good cause claim as she felt she was being pressured into doing the genetic testing. She testified that she did not file the paperwork to file good cause. She testified that she has the real name for Child A's father.

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. Disqualification includes member removal, as well as denial or closure of program benefits, depending on the type of assistance (TOA). BEM 255, p. 2.

The Department informs the individual of the right to claim good cause by giving them a DHS-2168, Claim of Good Cause - Child Support, at application, before adding a member and when a client claims good cause. BEM 255, p. 3.

There are two types of good cause: (i) cases in which establishing paternity/securing support would harm the child; and (ii) cases in which there is danger of physical or emotional harm to the child or client. BEM 255, pp. 3-4.

If a client claims good cause, both the specialist and the client must sign the DHS-2168. BEM 255, p. 4. The client must complete Section 2, specifying the type of good cause

and the individual(s) affected. BEM 255, p. 4. Give the client a copy of the completed DHS-2168. BEM 255, p. 4.

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.

At application, the client has 10 days to cooperate with OCS. BEM 255, p. 12. The Department informs the client to contact OCS in the verification check list (VCL). BEM 255, p. 12. The disqualification is imposed if client fails to cooperate on or before the VCL due date when all of the following are true:

- There is a begin date of non-cooperation in the absent parent logical unit of work.
- There is not a subsequent comply date.
- Support/paternity action is still a factor in the child's eligibility.
- Good cause has not been granted nor is a claim pending.

BEM 255, p. 12.

For SER cases, clients must be informed of all verifications that are required and where to return verifications. ERM 103 (February 2017), p. 6. The due date is eight calendar days beginning with the date of application. ERM 103, p. 6. If the application is not processed on the application date, the deadline to return verifications is eight calendar days from the date verification is requested. ERM 103, p. 6. This does not change the standard of promptness date. ERM 103, p. 6. The Department uses the DHS-3503, SER Verification Checklist, to request verification and to notify the client of the due date for returning the verifications. ERM 103, p. 6.

For SER cases, when an SER group member has been denied or terminated assistance for failure to comply, when able, with a procedural requirement of FIP, SDA or SSI, the group is not eligible for SER. ERM 203 (June 2013), p. 2. Groups that are non-cooperative with OCS are also ineligible for SER. ERM 203, p. 2.

Based on the foregoing information and evidence, the Department failed to satisfy its burden of showing that it properly denied Petitioner's SER application dated [REDACTED] in accordance with Department policy. At the time of Petitioner's SER

application, she was in non-compliance with OCS. Policy states that at application the client has 10 days to cooperate with OCS, and the Department informs the client to contact OCS in the VCL. BEM 255, p. 12. The Department failed to present any evidence showing that it sent Petitioner a VCL informing her to contact OCS after she submitted her application. The Department must provide Petitioner with the opportunity after the application, by issuing a VCL, for her to contact OCS and determine if she is in compliance. The undersigned Administrative Law Judge (ALJ) is not making a good cause determination or a determination if she is in compliance because at this point procedurally, the Department was supposed to send her a VCL to inform her to contact OCS. See BEM 255, p. 12.

### **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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it denied Petitioner's SER application dated [REDACTED].

Accordingly, the Department's SER 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. Initiate re-registration and reprocessing of Petitioner SER application dated [REDACTED];
2. Inform Petitioner to contact OCS in a verification check list (VCL) to determine cooperation with OCS in accordance with Department policy;
3. Issue supplements to Petitioner for any SER benefits she was eligible to receive but did not from the date of application; and
4. Notify Petitioner of its decision.

EJF/jaf



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**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

**DHHS**

[REDACTED]

**Petitioner**

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]