



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: August 23, 2017
MAHS Docket No.: 17-008682
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Carmen G. Fahie

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, an in-person hearing was held on August 16, 2017, from Lansing, Michigan. Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by [REDACTED] [REDACTED] Lead Worker at the Office of Child Support (OCS), [REDACTED] [REDACTED] Hearing Coordinator, and [REDACTED] [REDACTED] Eligibility Specialist.

ISSUE

Did the Department properly reduce Petitioner's Food Assistance Program (FAP) benefits due to noncompliance with the Office of Child Support (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 was a recipient of FAP, which requires her to participate with OCS to determine paternity and establish child support pursuant to BEM 255.
2. On March 11, 2016, the OCS sent Petitioner a First Customer Contact Letter indicating that Petitioner had 10 days to complete the Online Child Support Response form. Department Exhibit 1, pgs. 11-12.

3. On March 20, 2016, the OCS sent Petitioner a Final Customer Contact Letter indicating that Petitioner had 10 days to complete the Online Child Support Response form. Department Exhibit 1, pgs. 8-9.
4. On March 28, 2016, the OCS sent Petitioner a Noncooperation Notice because Petitioner did not respond and she had 10 days to complete the Online Child Support Response form. Department Exhibit 1, pg. 14.
5. On June 26, 2017, the Department sent Petitioner a Notice of Case Action that her FAP benefits were decreasing to \$ [REDACTED] a month effective June 1, 2017, because of gross income exceeds limit and for noncooperation with OCS. Department Exhibit 1, pgs. 20-22.
6. On June 27, 2017, the Department received a hearing request from Petitioner, contesting the Department's negative 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.

In this case, Petitioner was a recipient of FAP, which requires her to participate with OCS to determine paternity and establish child support pursuant to BEM 255. On March 11, 2016, the OCS sent Petitioner a First Customer Contact Letter indicating that Petitioner had 10 days to complete the Online Child Support Response form. Department Exhibit 1, pgs. 11-12. On March 20, 2016, the OCS sent Petitioner a Final Customer Contact Letter indicating that Petitioner had 10 days to complete the Online Child Support Response form. Department Exhibit 1, pgs. 8-9. On March 28, 2016, the OCS sent Petitioner a Noncooperation Notice because Petitioner did not respond and she had 10 days to complete the Online Child Support Response form. Department Exhibit 1, pg. 14.

On June 26, 2017, the Department sent Petitioner a Notice of Case Action that her FAP benefits were decreasing to \$ [REDACTED] a month effective June 1, 2017, because of gross income exceeds limit and for noncooperation with OCS. Department Exhibit 1, pgs. 20-22. On June 27, 2017, the Department received a hearing request from Petitioner, contesting the Department's negative action. BAM 115. BEM 255, 500, 501, and 554.

During the hearing, Petitioner stated that she was not sure about the paternity of her youngest child, but had tried to cooperate with OCS. She stated that she attended a party in [REDACTED] with a girlfriend that she saw on Facebook. She had sex with at least 2 men, but could not remember what they looked like or their name after having a few drinks. The post of the party has been removed from Facebook so she cannot look to see the names of who the post was sent to or who attended. Petitioner has not changed her story. She has participated with OCS in establishing paternity of her other child. Petitioner seems credible and would be subject to recoupment of benefits and sanctions if she was found to be not truthful in the future. This may be a moot point because she has excess income for FAP benefits based on her household composition.

In addition, a letter of support was sent from the Petitioner's Family Service Worker, [REDACTED], from [REDACTED] program. [REDACTED] felt that the Petitioner was credible in not being able to name the father of his child. She has been working with the Petitioner since September 2015. The history of her pregnancy has been consistent. She has tried to assist the Petitioner with the paternity with no success and that the father is unknown. Petitioner Exhibit 1, pg. a.

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 determined that the Petitioner had additional information about the paternity of her child.

DECISION AND ORDER

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 of initiating a redetermination of Petitioner's eligibility for FAP retroactive to case closure date of June 1, 2017.

Based on policy, the Department should provide Petitioner with written notification of the Department's revised eligibility determination and issue Petitioner any retroactive benefits she may be eligible to receive, if any.

Carmen G. Fahie

CF/md

Carmen G. Fahie
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]

Department Representative

[REDACTED]

Petitioner

[REDACTED]