



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: August 24, 2017
MAHS Docket No.: 17-009306
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Ellen McLemore

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 telephone hearing was held on ██████████, from Detroit, Michigan. The Petitioner was present and represented herself. The Department of Health and Human Services (Department) was represented by ██████████ ██████████, Manager, and ██████████ ██████████ Family Independence Specialist. The Office of Child Support was represented by ██████████, Lead Child Support Specialist.

ISSUES

1. Did the Department properly decrease Petitioner's Food Assistance Program (FAP) benefits for failing to cooperate with the Office of Child Support (OCS)?
2. Did the Department properly close Petitioner's Child Development and Care (CDC) benefits for failing to cooperate with 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 ██████████, the Department sent the Petitioner a Notice of Case Action stating that her FAP benefits were being reduced for her failure to cooperate with OCS.

3. On [REDACTED], OCS sent the Petitioner a Noncooperation Notice.
4. On [REDACTED], the Department sent the Petitioner a Notice of Case Action notifying her that her Child Development and Care (CDC) case was closed, effective [REDACTED], because she failed to cooperate with OCS.
5. On [REDACTED], the Petitioner filed a Request for Hearing disputing the Department's actions regarding her FAP, OCS and Medical Assistance (MA) cases.

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).

On [REDACTED], the Petitioner submitted a Request for Hearing regarding her MA, FAP and CDC cases. Shortly after the commencement of the hearing, Petitioner testified her MA benefits were no longer at issue. The request for hearing regarding her MA case was withdrawn on the record. The hearing proceeded to address the Petitioner's FAP and CDC issues.

FAP

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. Cooperation is a condition of eligibility. BEM 255, p. 9. Cooperation includes: contacting the support specialist when requested, providing all known information about the absent parent, appearing at the office of the prosecuting attorney when requested, and 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.

In this case, the Petitioner was sent a Notice of Case Action on [REDACTED], informing her that her benefits were decreased for her failure to cooperate with OCS. The Petitioner provided OCS with the information of two putative fathers. Both individuals were excluded by genetic testing as the child's natural father. The Petitioner was sent a

First Customer Contact Letter from OCS on [REDACTED], requesting that she contact their office within 10 days. OCS received no response from the Petitioner. OCS sent the Petitioner a Final Customer Contact Letter on [REDACTED], again requesting that she contact their office within 10 days. The Petitioner failed to comply with the request and she was issued a Noncooperation Notice on [REDACTED].

On [REDACTED], the Petitioner contacted OCS and provided the name of another putative father. The Petitioner notified OCS that the child's father's name was "[REDACTED] [REDACTED]" and that she had known him for [REDACTED] years. The Petitioner did not have any other identifying information. OCS was unable to verify the existence of this individual or any way to contact him based on the details supplied by the Petitioner. As a result, the Department maintained the Petitioner in a non-cooperative status.

On [REDACTED], the Petitioner requested a hearing regarding the reduction of her FAP benefits as a result of her failure to comply with OCS. A request for a hearing must be submitted within 90 days from the date of the written notice of case action. BAM 600 (April 2017), p. 6. However, an exception applies to FAP Cases and a request for a hearing disputing the current level of benefits may be made any time within the benefit period. BAM 600, p. 7. "Current" is interpreted to refer to the client's eligibility as of the hearing request month. Based on Petitioner's hearing request submission from [REDACTED] [REDACTED] Petitioner may dispute [REDACTED] FAP eligibility ongoing.

The Petitioner testified she was unable to locate the putative father herself and that he was no longer responding to her phone calls. The individual that introduced the putative father to the Petitioner is now deceased and cannot be used as a means of locating the putative father. The Petitioner testified she never went to the putative father's residence, and they always met each other at friends' houses. The Petitioner testified she had a child previously with the same individual, but the child died. The Petitioner stated she has not communicated with the putative father since the birth of her living child.

Petitioner's testimony that she gave OCS all known information regarding the child's putative father was not credible. It is difficult to believe the Petitioner does not have any additional identifying information given she has known this individual for [REDACTED] years and was impregnated twice. A more likely explanation for Petitioner's information not leading to an identification is that Petitioner purposely gave inaccurate information or she has not undertaken reasonable efforts to obtain accurate information. Failure to cooperate without good cause results in disqualification of the individual who failed to cooperate from the FAP group. BEM 255, p.14. Therefore, the Department properly continued to exclude Petitioner from the FAP group on the basis of noncooperation with OCS.

CDC

The Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, 42 USC 601-619, 670-679c, and 1397-1397m-5; the Child Care and Development Block Grant of 1990, PL 101-508, 42 USC 9858 to 9858q; and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL

104-193. The program is implemented by 45 CFR 98.1-99.33. The Department administers the program pursuant to MCL 400.10 and provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001-.5020.

On [REDACTED], the Department issued a Notice of Case Action informing the Petitioner that her CDC case was closed for her failure to cooperate with OCS. The Department's action was based on the Noncooperation Notice issued on [REDACTED].

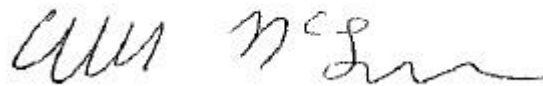
As stated previously, Department policy requires the custodial parent of children to comply with all requests for action or information needed to establish paternity and/or obtain child support on behalf of children for whom they receive assistance, unless a claim of good cause for not cooperating has been granted or is pending. BEM 255, p. 1. Cooperation is a condition of CDC eligibility. BEM 255, p. 9. The Petitioner failed to cooperate with OCS without good cause. Thus, the Department properly closed the Petitioner's CDC case.

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 continued to exclude Petitioner from the FAP group and closed the Petitioner's CDC case.

Accordingly, the Department's decisions regarding Petitioner's FAP and CDC benefits are **AFFIRMED**.

Pursuant to the withdrawal of the hearing request filed in this matter, the Request for Hearing regarding Petitioner's MA benefits is, hereby, **DISMISSED**.



EM/jaf

Ellen McLemore
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

