



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: October 10, 2017
MAHS Docket No.: 17-009618
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Aaron McClintic

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 September 14, 2017, from [REDACTED], Michigan. Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by Lead Worker [REDACTED] [REDACTED] from the Office of Child Support. [REDACTED] AP Worker, [REDACTED] [REDACTED] AP Worker, and [REDACTED] [REDACTED] Hearing Facilitator were also present. Department Exhibit A1-F11 were received and admitted.

ISSUE

Did the Department properly close Petitioner's Child Day Care Assistance (CDC) for failing to cooperate 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. On June 30, 2017, a Notice of Case Action was issued informing Petitioner that the Department processed a change and non-cooperation with the Office of Child Support caused CDC benefits to close. (Dept. Ex. B1-B5)
2. On September 20, 2016, the Office of Child Support found Petitioner uncooperative because she failed to respond to the first contact letter sent on September 1, 2016, and the second contact letter sent on September 11, 2016. In addition, Petitioner failed to provide the Office of Child Support with identifying information about the parent not in the home. (Dept. Ex. F, p.2)

3. Petitioner credibly testified at hearing that her 10-year-old child was conceived as the result of rape.
4. Petitioner credibly testified that she provided all information she had regarding the father of her 10-year-old child.
5. On July 11, 2017, Petitioner requested hearing contesting the closure of CDC benefits.

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 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.

COOPERATION

FIP, CDC Income Eligible, MA and FAP

Cooperation is a condition of eligibility. The following individuals who receive assistance on behalf of a child are required to cooperate in establishing paternity and obtaining support, unless good cause has been granted or is pending:

- Grantee (head of household) and spouse.
- Specified relative/individual acting as a parent and spouse.
- Parent of the child for whom paternity and/or support action is required.

Cooperation is required in all phases of the process to establish paternity and obtain support. 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).

CDC Disqualification

CDC Income Eligible

Failure to cooperate without good cause, with Office of Child Support requirements for a child requesting or receiving benefits will result in group ineligibility for CDC. Bridges will close or deny the CDC EDG when a child support non-cooperation record exists and there is no corresponding comply date.

Good Cause Reasons

FIP, CDC Income Eligible, MA and FAP

There are two types of good cause:

1. Cases in which establishing paternity/securing support would harm the child. Do **not** require cooperation/support action in any of the following circumstances:
 - The child was conceived due to incest or forcible rape.
 - Legal proceedings for the adoption of the child are pending before a court.
 - The individual is currently receiving counseling from a licensed social agency to decide if the child should be released for adoption, **and** the counseling has **not** gone on for more than three months.
2. Cases in which there is danger of physical or emotional harm to the child or client. Physical or emotional harm may result if the client or child has been subject to or is in danger of:

- Physical acts that resulted in, or threatened to result in, physical injury.
- Sexual abuse.
- Sexual activity involving a dependent child.
- Being forced as the caretaker relative of a dependent child to engage in non-consensual sexual acts or activities.
- Threats of, or attempts at, physical or sexual abuse.
- Mental abuse.

Neglect or deprivation of medical care BEM
255(1/1/2017)

In this case, Petitioner credibly testified that she provided all the information she had regarding the father of her child. The Department could not explain what other information Petitioner may have or what specifically Petitioner had done to warrant a finding of noncooperation. Therefore, the Department failed to establish that Petitioner was noncooperative with the Office of Child Support and closure of CDC benefits on that basis was not warranted. BEM 255

Petitioner also alleged that the child was conceived as a result of rape and asserted good cause if she was found in noncooperation. Petitioner credibly testified that her 10-year-old child was conceived as the result of rape. Petitioner credibly testified that she did not report the rape to law enforcement and that she had no other proof other than her own testimony. Petitioner's credible testimony at hearing established that she had good cause due to the child being conceived as the result of rape and she should not have been required to cooperate in establishing paternity for that child. BEM 255

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 closed CDC benefits due to noncooperation with the Office of Child Support.

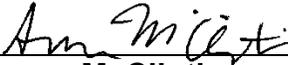
DECISION AND ORDER

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:

1. Lift the noncooperation sanction
2. Reinstate CDC benefits going back to the date of closure.

AM/md



Aaron McClintic

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]