



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: April 21, 2017
MAHS Docket No.: 17-003547
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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; 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 April 12, 2017, from Detroit, Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by [REDACTED], specialist, and [REDACTED], lead specialist.

ISSUE

The issue is whether MDHHS properly reduced Petitioner's Food Assistance Program (FAP) eligibility due to Petitioner's 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 an ongoing FAP benefit recipient.
2. On [REDACTED], MDHHS deemed Petitioner to be uncooperative in obtaining child support for a child.
3. On [REDACTED], MDHHS mailed Petitioner a Notice of Case Action (Exhibit 1, p. 1) informing Petitioner of a reduction in FAP eligibility to [REDACTED], effective [REDACTED].

4. On [REDACTED], Petitioner requested a hearing to dispute the reduction of FAP eligibility and Medical Assistance (MA) benefits.
5. Petitioner withdrew her dispute concerning MA benefits.
6. MDHHS did not establish Petitioner was noncompliant with obtaining child support.

CONCLUSIONS OF LAW

Medical Assistance (MA) program is established by Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. MDHHS (formerly known as the Family Independence Agency) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing, in part, to dispute MA benefits. Petitioner's hearing request indicated her MA eligibility was reduced. Petitioner testimony conceded she experienced no reduction in MA benefits. Petitioner further testified that a hearing was not necessary concerning MA benefits while agreeing to withdraw her hearing request concerning MA benefits. MDHHS had no objections to the partial withdrawal of Petitioner's hearing request. Petitioner's hearing request will be dismissed concerning her MA dispute.

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. MDHHS (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. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing, in part, to dispute a reduction in FAP eligibility. Petitioner testimony indicated her dispute began [REDACTED]. MDHHS presented a Notice of Case Action (Exhibit 1, pp. 4-5) dated [REDACTED]. The notice stated Petitioner's FAP eligibility for [REDACTED] was reduced due to a child support disqualification. The child support disqualification was the only disputed issue concerning FAP eligibility.

[For FAP benefits,] 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 (April 2015),

p. 1. Cooperation is a condition of eligibility. *Id.*, p. 9. Cooperation is required in all phases of the process to establish paternity and obtain support. *Id.* 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).

Id.

MDHHS alleged Petitioner failed to cooperate in obtaining child support by failing to provide sufficient information to identify her child's father. The facts supporting the allegation were not disputed.

On [REDACTED] (the date MDHHS deemed Petitioner to be uncooperative), Petitioner contacted OCS. It was also not disputed Petitioner contacted OCS before [REDACTED]. Petitioner informed OCS that she was not married at the time of her child's conception. It was not disputed that Petitioner reported that she knew her child's father first name. Petitioner reported that she met her child's father at a bar in [REDACTED]. Petitioner reported an approximate height and weight for the man she reportedly met. Petitioner also reported a vehicle model and color of the car he drove on the night they met. Petitioner was unable to provide a last name, employer, address, or phone number for the gentleman.

MDHHS testimony indicated Petitioner's reported information was insufficient to identify the child's father. Given the information provided by Petitioner, it is not known how MDHHS could have possibly identified the father. MDHHS testimony contended that Petitioner's failure to provide identifying paternal information was the basis of her noncompliance. An inability to identify a biological parent, by itself, is an insufficient basis to impose a child support disqualification.

In *Black v Dept of Social Services*, 195 Mich App 27 (1992), the Court of Appeals addressed the issue of burden of proof in a non-cooperation finding. Specifically, the court in *Black* ruled that to support a finding of non-cooperation, the agency has the burden of proof to establish that the mother (1) failed to provide the requested verification and that (2) the mother knew the requested information. The *Black* court also emphasized the fact that the mother testified under oath that she had no further information and the agency failed to offer any evidence that the mother knew more than she was disclosing. *Black* at 32-34.

The scenario reported by Petitioner was neither particularly credible nor corroborated by any evidence. The scenario reported by Petitioner was also not rebutted by evidence from MDHHS. Fortunately for Petitioner, it is MDHHS' burden to establish that Petitioner failed to provide knowledge of her child's father. MDHHS did not meet that burden. It is found that MDHHS improperly determined Petitioner to be uncooperative with child support.

Failure to cooperate without good cause results in disqualification. *Id.*, p. 2. Disqualification includes member removal, as well as denial or closure of program benefits... *Id.*

The finding that MDHHS failed to establish Petitioner was noncompliant with obtaining child support justifies finding that the corresponding child support disqualification was improper. Accordingly, the FAP benefit reduction based on a child support disqualification was improper.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that Petitioner withdrew her hearing request concerning MA benefits. Petitioner's hearing request is **PARTIALLY DISMISSED**.

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly reduced Petitioner's FAP eligibility. It is ordered that MDHHS begin to perform the following actions within 10 days of the date of mailing of this decision:

- (1) Redetermine Petitioner's FAP eligibility, effective [REDACTED], subject to the finding that Petitioner was compliant with obtaining child support; and
- (2) Issue any benefits improperly not issued.

The actions taken by MDHHS are **REVERSED**.

CG/hw



Christian Gardocki

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]

DHHS

[REDACTED]
[REDACTED]
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[REDACTED]
[REDACTED]

Petitioner

[REDACTED]
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