



RICK SNYDER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
MICHIGAN ADMINISTRATIVE HEARING SYSTEM  
Christopher Seppanen  
Executive Director

SHELLY EDGERTON  
DIRECTOR

Date Mailed: June 14, 2017  
MAHS Docket No.: 17-005969  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Alice C. Elkin**

**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 June 7, 2017, from Detroit, Michigan. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by Ghawana Dixon, Assistance Payment Supervisor. Lynne Crittendon, Lead Support Specialist with the Office of Child Support (OCS), testified on the Department's behalf.

**ISSUE**

Did the Department properly deny Petitioner's [REDACTED] 2017 application for Family Independence Program (FIP) benefits for noncooperation with child support reporting obligations?

Did the Department properly remove Petitioner from her Food Assistance Program (FAP) group and reduce her FAP benefits?

**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 recipient of FAP benefits for a two person FAP group consisting of her and her minor child, born [REDACTED] 2009.
2. On [REDACTED], 2017, Petitioner applied for FIP.

3. On January 23, 2017, the Department sent Petitioner a Notice of Case Action notifying her that her FIP application was denied because she had failed to cooperate in pursuing other potential benefits (Exhibit C, pp. 7-9).
4. On February 4 and 13, 2017, OCS sent Petitioner contact letters requesting that she provide information concerning the noncustodial parent of her minor child (Exhibit D, pp. 13-14, 20-21). On February 22, 2017, OCS sent Petitioner a Noncooperation Notice advising her that her benefits would be reduced or her case closed because she had failed to respond to the contact letters and provide identifying information about the noncustodial parent (Exhibit D, p. 17).
5. Effective April 1, 2017, the Department removed Petitioner as a qualified member of her FAP group due to her noncooperation with FAP benefits and reduced her monthly FAP benefits (Exhibits A and B, pp. 5-6).
6. On [REDACTED] 2017, the Department received Petitioner's written request for hearing disputing the Department's actions concerning FIP and FAP (Exhibit A, pp. 2-3).

### **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 Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Department of Human Services) administers FIP pursuant to 45 CFR 233-260, MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3101-.3131.

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.

Petitioner requested a hearing disputing the denial of her FIP application and the reduction of her FAP benefits. Although the January 23, 2017 Notice of Case Action denying Petitioner's [REDACTED] 2017 FIP application indicated that the denial was due to Petitioner's failure to submit verifications and her failure to cooperate in pursuing other potential benefits, the Department testified that verifications were not an issue and the application was denied solely because Petitioner was in noncooperation with child support. The Department further testified that Petitioner was disqualified from her FAP group effective April 1, 2017 due to the child support noncooperation sanction, leaving

her minor child as the sole member of her FAP group. As a result, her monthly FAP benefits decreased to \$194, the maximum available for a one-person FAP group. See RFT 260 (October 2016), p. 1.

As a condition of FIP and FAP eligibility, custodial parents must comply with all requests by OCS 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.

The evidence at the hearing established that the Department denied Petitioner's FIP application on January 23, 2017 on the basis that she had failed to cooperate with pursuing other potential resources. However, OCS did not notify Petitioner that she was in noncooperation with her child support reporting obligations concerning her minor child until February 22, 2017. Accordingly, the Department did not act in accordance with Department policy when it denied her FIP application for failure to cooperate with her child support reporting obligation a month before OCS found her in noncooperation. It is further noted that when a client applies for FIP and the client is in noncooperation with child support, the Department must issue a verification checklist (VCL) advising the client of the noncooperation and the resulting disqualification if the client fails to cooperate within ten days of the date of the VCL. BEM 255, p. 12. There was no evidence presented that the Department properly sent a VCL before denying Petitioner's FIP application.

Furthermore, the Department has failed to establish that Petitioner did not cooperate. Department policy defines cooperation as providing all known information about the absent parent. BEM 255, p. 9. In this case, OCS acknowledged that Petitioner had been in contact with the office and had provided a common name for her child's possible father. However, OCS concluded that Petitioner was not in cooperation with her child support reporting obligations because she had not provided any "identifiable and verifiable" information that would allow OCS to match the provided information with an actual person.

At the hearing, Petitioner testified that, before becoming pregnant with her daughter in 2008, she had just ended an exclusive relationship with [REDACTED] and had a brief "fling" with [REDACTED]. When she discovered that she was pregnant, Petitioner informed both [REDACTED] and [REDACTED] that they were potential fathers of her unborn child. [REDACTED] pushed her around, and Petitioner ended her relationship with him. She testified that she identified both [REDACTED] and [REDACTED] as potential fathers to OCS at the time of the child's birth. Genetic testing in 2009 revealed that [REDACTED] was not the child's father. Petitioner continued to receive benefits and assumed that, because [REDACTED] was not her daughter's father, [REDACTED] was the father and identified him as such in paperwork she submitted to the Department. OCS did not seek additional information from Petitioner concerning [REDACTED] until February 2017. As Petitioner pointed out, at that time nearly eight years had passed since the child's birth. Petitioner testified that she had not had any contact with [REDACTED] since she

became pregnant. At the hearing, the Department acknowledged that it did not have any reason to believe that Petitioner was withholding any information concerning the child's paternity. Because OCS failed to present any information to show that it had reason to believe that Petitioner was withholding information, the Department has failed to establish that Petitioner was in noncooperation with her child support reporting obligations. As such, Petitioner's FIP application was improperly denied on the basis that she had failed to cooperate with her child support reporting obligations. Because the evidence did not establish noncooperation, she was not a disqualified member of her FAP group. BEM 212 (January 2017), pp. 8-9; BEM 255, p. 14. Thus, the Department improperly removed from her FAP group and reduced the group's benefits.

### **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 did not act in accordance with Department policy when it denied Petitioner's [REDACTED] 2017 FIP application and reduced her FAP benefits.

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. Remove the child support noncooperation applied to Petitioner's case on or about February 22, 2017;
2. Reregister and reprocess Petitioner's [REDACTED] 2017 FIP application;
3. Issue supplements to Petitioner for FIP benefits she was eligible to receive but did not from the date of application;
4. Include Petitioner as a qualifying member of her FAP group effective April 1, 2017;
5. Recalculate Petitioner's FAP benefits for April 1, 2017 based on the increased group size; and

6. Issue supplements to Petitioner for FAP benefits she was eligible to receive but did not from April 1, 2017 ongoing.



ACE/tlf

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**Alice C. Elkin**  
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

**Via Email:**

MDHHS-Wayne-31-Grandmont-  
Hearings@Michigan.gov  
BSC4 Hearing Decisions  
DHS OCS  
D. Shaw  
D. Sweeney  
B. Cabanaw  
M. Holden  
MAHS

**Petitioner – Via First-Class Mail:**

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