



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]
MI [REDACTED]

Date Mailed: August 7, 2017
MAHS Docket No.: 17-007328
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Eric J. Feldman

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 four-way telephone hearing was held on July 12, 2017, and August 3, 2017, from Detroit, Michigan. Attorney Alesha Burnash appeared on behalf of Petitioner. Petitioner [REDACTED] was present for the hearing; Petitioner's mother, [REDACTED], was present for the hearing, but did not provide testimony; and [REDACTED] a clinical therapist from YWCA, was present for the hearing and provided testimony. Assistant Attorney Generals Emanuel Awuta-Coker and H. Daniel Beaton, Jr. appeared on behalf of the Department of Health and Human Services (Department). Participating on behalf of the Department was Jane Conner, Family Independence Manager (FIM); Patricia Daniel, Hearings Facilitator; Angela Ladd, Family Independence Specialist (FIS); and Jeff Koteles, Lead Child Support Specialist from the Office of Child Support (OCS).

ISSUES

1. Did the Department properly deny Petitioner's claim of good cause for not cooperating with OCS?
2. Did the Department properly close Petitioner's Family Independence Program (FIP) benefits due to her failure to establish paternity and/or obtain child support?
3. Did the Department properly disqualify Petitioner from her Food Assistance Program (FAP) benefits due to her failure to establish paternity and/or obtain child support?

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 FIP and FAP benefits.
2. Petitioner was originally placed in noncooperation with OCS on July 26, 2016. [Exhibit A, p. 157.]
3. On or about July 27, 2016, Petitioner contacted her Department worker, requesting a claim of good cause. [Exhibit A, p. 1.]
4. On July 28, 2016, the Department sent Petitioner a Claim of Good Cause – Child Support (DHS-2168) (hereinafter referred to as a “good cause claim”). [Exhibit A, pp. 17-18.]
5. On July 29, 2016, Petitioner contacted OCS support specialist and indicated she did not want to reveal the name and information to identify the absent parent. [Exhibit A, p. 157.]
6. On September 6, 2016, Petitioner submitted a good cause claim with no additional documentation provided. In the form, she indicated that the basis of the harm was: (i) danger of physical harm (herself and children were not checked); (ii) danger of emotional harm to herself and children; and (iii) child was conceived due to sexual assault. Petitioner listed Child A (date of birth: July 2, 2016) and Child B (date of birth: December 3, 2003) as the names of the children affected. Petitioner was placed back in cooperation per the good cause claim. [Exhibit A, pp. 17-18, 25, and 157.]
7. On September 7, 2016, the Department sent Petitioner a Verification Checklist (VCL) requesting proof of good cause; and it was due back by September 27, 2016. [Exhibit A, p. 19.]
8. On September 22, 2016, the Department sent Petitioner another VCL (extension) requesting proof of good cause and it was due back by October 12, 2016. [Exhibit A, p. 20.]
9. On October 12, 2016, Petitioner submitted a police report from the Elkhart Police Department (police department), a letter written from her daughter dated August 9, 2016, and a letter written by Petitioner. [Exhibit A, pp. 22-38.]
10. On October 14, 2016, the Department sent Petitioner another VCL (extension) requesting proof of good cause and it was due back by November 3, 2016. [Exhibit A, p. 21.]
11. On or about October 14, 2016, the Department denied Petitioner's good cause claim. [Exhibit A, pp. 39-40.]

12. On or about October 18, 2016, the case was transferred to another Department worker, Angela Ladd, Family Independence Specialist.
13. On October 31, 2016, Ms. Ladd improperly approved Petitioner's good cause claim. The good cause was removed; and a new good cause claim was sent to Petitioner on March 1, 2017. [Exhibit A, pp. 2 and 42-43.]
14. On March 2, 2017, Petitioner submitted another good cause claim. In the form, she indicated that the basis of the harm was: (i) danger of physical harm to herself and the child; (ii) danger of emotional harm to herself and the child; and (iii) child was conceived due to sexual assault. Petitioner listed Child A as the name of the child affected. Petitioner was placed back in cooperation per the good cause claim. [Exhibit A, pp. 43 and 157.]
15. On an unspecified date, FIM Jane Conner reviewed the good cause claim and denied the request. [Exhibit A, p. 2.]
16. On April 16, 2017, OCS sent Petitioner a First Customer Contact Letter (to a different apartment letter). [Exhibit A, pp. 165-166.]
17. On April 27, 2017, OCS sent Petitioner a Final Customer Contact Letter (to a different apartment letter). [Exhibit A, pp. 169-170.]
18. On May 5, 2017, OCS found Petitioner to be in noncooperation. [Exhibit A, p. 157.]
19. On May 6, 2017, OCS sent Petitioner a Non-Cooperation Notice due to her failure to respond to the first and second contact letters; and she failed to provide OCS with identifying information about the absent parent (to a different apartment letter). [Exhibit A, p. 162.]
20. On May 8, 2017, the Department sent Petitioner a Notice of Case Action notifying her that her FIP benefits would close effective June 1, 2017, ongoing because she failed to cooperate in establishing paternity or securing child support. [Exhibit A, pp. 4-5.]
21. The Notice of Case Action dated May 8, 2017, also notified Petitioner that her FAP benefits would decrease to \$357 effective June 1, 2017, for a group size of two because Petitioner was disqualified from the FAP group due to her noncooperation with OCS. [Exhibit A, pp. 4-8.]
22. On May 26, 2017, Petitioner's Counsel filed a hearing request, protesting the Department's action. [Exhibit A, p. 3.]
23. On June 20, 2017, the Michigan Administrative Hearing System (MAHS) sent both parties a Notice of Hearing scheduling a hearing for July 12, 2017.
24. On July 12, 2017, both parties were present for the hearing; but the hearing was not completed, and good cause was established to continue the hearing.

25. On July 13, 2017, the undersigned Administrative Law Judge (ALJ) sent both parties an Order of Continuance scheduling the continuance hearing for August 3, 2017.
26. On August 3, 2017, both parties were present for the hearing and the record closed at the conclusion of the hearing.

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.

Department Policy

Families are strengthened when children's needs are met. BEM 255 (January 2017), p. 1. Parents have a responsibility to meet their children's needs by providing support and/or cooperating with the department, including the Office of Child Support (OCS), the Friend of the Court (FOC) and the prosecuting attorney to establish paternity and/or obtain support from an absent parent. BEM 255, p. 1.

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, p. 1.

Failure to cooperate without good cause results in disqualification. BEM 255, p. 2. Disqualification includes member removal, as well as denial or closure of program benefits, depending on the type of assistance (TOA). BEM 255, p. 2.

There are two types of good cause. BEM 255, p. 3. The first type is cases in which establishing paternity/securing support would harm the child. BEM 255, p. 3. Do not require cooperation/support action in any of the following circumstances: (i) the child was conceived due to incest or forcible rape; (ii) legal proceedings for the adoption of the child

are pending before a court; or (iii) 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. BEM 255, pp. 3-4.

The second type is cases in which there is danger of physical or emotional harm to the child or client. BEM 255, p. 4. Physical or emotional harm may result if the client or child has been subject to or is in danger of: (i) physical acts that resulted in, or threatened to result in, physical injury; (ii) sexual abuse; (iii) sexual activity involving a dependent child; (iv) being forced as the caretaker relative of a dependent child to engage in non-consensual sexual acts or activities; (v) threats of, or attempts at, physical or sexual abuse; (vi) mental abuse; or (vii) neglect or deprivation of medical care. BEM 255, p. 4.

If a client claims good cause, both the specialist and the client must sign the DHS-2168, Claim of Good Cause - Child Support. BEM 255, p. 4. The client must complete Section 2, specifying the type of good cause and the individual(s) affected. BEM 255, p. 4. Give the client a copy of the completed DHS-2168. BEM 255, p. 4.

To prevent any support action while the good cause claim is pending, enter good cause status and claim date in the absent parent logical unit of work and file the DHS-2168 in the case within two working days of completion. BEM 255, p. 4. A claim may be made at any time. BEM 255, p. 4. The FIS/ES specialist is responsible for determining if good cause exists. BEM 255, p. 4. Do not deny an application or delay program benefits just because a good cause claim is pending. BEM 255, p. 4.

A good cause claim must do all of the following: (i) specify the reason for good cause; (ii) specify the individuals covered by it; and (iii) be supported by written evidence or documented as credible. BEM 255, pp. 4-5.

The Department requests the client provide evidence of good cause within 20 calendar days of claim. BEM 255, p. 5. Allow an extension of up to 25 calendar days if the client has difficulty in obtaining the evidence. BEM 255, p. 5. Note, change the Verification Check List (VCL) due date in Bridges manually, to extend the due date of verification. BEM 255, p. 5. Assist clients in obtaining written evidence if needed. BEM 255, p. 5. Place any evidence in the case record. BEM 255, p. 5. See Verification Sources in this item for examples of acceptable evidence. BEM 255, pp. 5 and 19-20. If written evidence does not exist, document why none is available and determine if the claim is credible. BEM 255, p. 5. Base credibility determination on available information, including client statement and/or collateral contacts with individuals who have direct knowledge of the client's situation. BEM 255, p. 5. Verification of good cause due to domestic violence is required only when questionable. BEM 255, p. 5.

Make a good cause determination within 45 calendar days of receiving a signed DHS-2168 claiming good cause. BEM 255, p. 5. The OCS can review and offer comment on the good cause claim before you make your determination. BEM 255, p. 5. Exceed the 45-day limit only if all of the following apply: (i) the client was already granted an additional 25-day extension to the original 20-day limit; (ii) more information is needed

that cannot be obtained within the 45-day limit; and (iii) supervisory approval is needed. BEM 255, p. 5. Document extensions in the case record. BEM 255, p. 5.

One of three findings is possible when making a determination:

- Approved - Continue with Child Support Action.

Example: Court order is already established and client participation is no longer necessary to pursue support.

- Approved - Discontinue or do not initiate Child Support Action; this applies when there is a risk to the child or custodial parent/caretaker or there is an existing child support order.
- Denied - Good cause does not exist; this applies if the family does not present criteria that meets good cause or there was no convincing evidence of risk.

BEM 255, p. 6. All good cause determinations must be: (i) approved by a specialist's supervisor; (ii) reviewed at every redetermination if subject to change; (iii) documented on the DHS-2169, Notice of Good Cause Finding - Child Support/Third Party Resources and a copy must be placed in the case record; and (iv) entered in the absent parent logical unit of work to include status, claim date, and begin date when approved. BEM 255, p. 6. End date is entered when applicable. BEM 255, p. 6.

In regards to verification requirements, policy states that a claim of good cause must be supported by written evidence or documented as credible. BEM 255, p. 18. Assist clients in obtaining evidence if needed. BEM 255, p. 18. Verification Sources provides a list of acceptable verifications for good cause regarding pending adoption, adoption counseling, and domestic violence. BEM 255, p. 19.

Additionally, cooperation is a condition of eligibility. BEM 255, p. 9. Cooperation is required in all phases of the process to establish paternity and obtain support. BEM 255, p. 9. 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).

BEM 255, p. 9.

The support specialist determines cooperation for required support actions. BEM 255, p. 10. The date client fails to cooperate will be populated in the absent parent logical unit of work and negative action is applied the same night automatically. BEM 255,

p. 10. Exception, determine noncooperation for failure to return assigned support payments received after the support certification effective date. BEM 255, p. 10. Cooperation is assumed until negative action is applied as a result of noncooperation being entered. BEM 255, p. 10. The noncooperation continues until a comply date is entered by the primary support specialist or cooperation is no longer an eligibility factor. BEM 255, p. 10. The comply date will be populated in the absent parent logical unit of work and the mandatory member will be added to active Medical Assistance (MA) and FAP Eligibility Determination Group (EDG) the same night automatically. BEM 255, p. 10.

For FIP cases, any individual required to cooperate who fails to cooperate without good cause causes group ineligibility for a minimum of one month. BEM 255, p. 13. The Department will close FIP for a minimum of one calendar month when any member required to cooperate has been determined noncooperative with child support. BEM 255, p. 13. The disqualification is effective the first day of a month. BEM 255, p. 13.

For FAP cases, failure to cooperate without good cause results in disqualification of the individual who failed to cooperate. BEM 255, p. 14. The individual and his/her needs are removed from the FAP EDG for a minimum of one month. BEM 255, p. 14. The remaining eligible group members will receive benefits. BEM 255, p. 14. When FIP closes due to child support noncooperation and the non-cooperating individual has a FAP EDG participation status of eligible or disqualified, the Department counts the last FIP grant amount in the FAP budget for one month. BEM 255, p. 14. Note, the last FIP grant amount is the monthly grant amount the individual received immediately before FIP closed. BEM 255, p. 14. The Department removes the last FIP grant amount from the FAP budget after it has been budgeted for one month. BEM 255, p. 14.

Testimony of Family Independence Manager Jane Conner on July 12, 2017

During direct testimony, Ms. Conner testified that she reviewed the good cause claim received on March 2, 2017. When determining Petitioner's good cause claim, Ms. Conner testified she reviewed the police report, Petitioner's letter, her daughter's letter, information indicating that another individual was excluded from being the biological father, medical records, and online baby shower records. After reviewing the documents, Ms. Conner found that Petitioner's good cause claim was not credible. She testified that she has never seen paternity tested three to four days after the baby's birth. She testified that the police report was dated August 24, 2016, which was after the July 28, 2016, date Petitioner was notified of her noncooperation with OCS. [Exhibit A, pp. 25-30.] Based on the police report, Ms. Conner testified that Petitioner's alleged rape by the individual (hereinafter referred to as "alleged absent parent") occurred on or about October 27, 2015. [Exhibit A, p. 27.] She also read the police report in which the officer concluded there was no physical evidence of rape, the victim (Petitioner) claims it happened 10 months ago; and she just filed the case after finding out her boyfriend is not the father during a paternity test. [Exhibit A, p. 50.] Based on the police report, Ms. Conner indicated that she did not find Petitioner credible.

During cross-examination, Ms. Conner provided testimony as to Petitioner's procedurally history for her good cause claims. Ms. Conner testified that BEM 255 provides guidelines when granting good cause claims. Ms. Conner testified that the

Facebook posts with Petitioner and the alleged absent parent were important because they were in a long-term sexual relationship. She testified that all of these issues began after Petitioner found out the boyfriend was not the biological father of Child A. She testified that she did not find Petitioner's statement in the police report credible. She acknowledged that some of the contributing reasons as to why she did not find Petitioner credible was Petitioner had a long-term sexual relationship with the alleged absent parent prior to the incident, Petitioner believed that her boyfriend was the actual father, and Petitioner did not decide he was the father based on the due date calculation. She testified that Petitioner's entire story was not credible. She testified that she did not review Child Protective Services (CPS) report concerning Petitioner. She testified that she was not sure if there was written proof that Petitioner was denied for the second good cause claim dated March 2, 2017.

Testimony of Lead Child Support Specialist Jeff Koteles on August 3, 2017

During direct testimony, Mr. Koteles's read the "Supplemental Hearing Summary Non Cooperation Explanation of Action Taken by Office of Child Support" (supplemental hearing summary) and his testimony concentrated around this admitted document. [Exhibit A, pp. 157-158.] Mr. Koteles testified that on March 6, 2017, Petitioner contacted OCS and stated that all she knew about the alleged absent partner was his name; and she had no more information. [Exhibit A, p. 157.] As to the noncooperation, Mr. Koteles testified that Petitioner initially told the Child Support Specialist (CSS) she did not want to reveal who the possible father was or his identifying information, but his name was later supplied by a Department worker. Mr. Koteles testified that this is an assertion of refusing to cooperate with OCS. He testified that Petitioner later called and provided a name and nothing more. He testified that during the pre-hearing conference (dated May 10, 2017), she revealed more information about the incident in which she said "...she was raped but provided no verification..." [Exhibit A, p. 158.] Mr. Koteles questioned Petitioner's allegation of the incident and further testified that she does not want to reveal the possible father and has offered no helpful information to verify his identify despite saying they had previous relationships and the story of the alleged incident seems questionable at best; and therefore, she is determined to be in noncooperation with OCS. [Exhibit A, p. 158.]

During cross-examination, Mr. Koteles testified he never spoke with Petitioner; and his testimony is based on notes in OCS's computer system. It was also discovered that the OCS correspondence (i.e., Noncooperation Notice) was being sent to the wrong apartment. Petitioner's Counsel indicated that the documentation was being sent to [REDACTED] but instead, it should have been sent to [REDACTED] thus, she never received the correspondence timely. [Exhibit A, pp. 162-170 (emphasis added).] Petitioner's Counsel informed Mr. Koteles's that her Petitioner notified OCS of the proper address. Mr. Koteles testified that Petitioner indicated during the pre-hearing conference on May 10, 2017, that she was raped although she had no verification.

Testimony of Hearings Facilitator Patricia Daniel on August 3, 2017

Petitioner's Counsel first called Ms. Daniel as a witness, who dictated the Hearing Summary for the evidence record. [Exhibit A, pp. 1-2.] More specifically, Petitioner's Counsel questioned the portion that stated "[REDACTED] claimed that her baby tested positive at birth for marijuana and the alleged absent parent [omitted name] had given her the substance on the day of the child's birth." [Exhibit A, p. 2.] Ms. Daniel testified she obtained this information from a CPS report. Counsel questioned Ms. Daniel because these were allegations from the CPS report, not statements made by Petitioner. Ms. Daniel's kept testifying that this was from the CPS report and that is why she placed it in the Hearing Summary. Counsel argued that she placed allegations in the Hearing Summary.

Testimony of Petitioner [REDACTED] on August 3, 2017

Petitioner's Counsel then called her client, [REDACTED] to provide testimony. She testified she eventually received a Noncooperation letter in July 2016 by OCS, she then contacted OCS, and provided the proper address (as stated above, it was an incorrect apartment), but OCS indicated it could not change the address. She testified that her and her boyfriend has a DNA (deoxyribonucleic acid) test to determine if he was the father of Child A. She provided testimony as to the first good cause claim she submitted and the documentation, such as the police report, that she later supplied.

On or about November 2015, she testified that she was just friends with the alleged absent parent. She testified that previously she had an intimate relationship with the alleged absent parent, which ended six to eight months before the incident. On or about October 27, 2015, she testified that the alleged absent parent asked her for a ride from the airport (Chicago, Illinois) to his residence ([REDACTED] Indiana), which she did. [Exhibit A, p. 27.] She testified that he asked her to stay at his residence, which she did. She testified that they ate, and she had tea on his couch; and the next thing she remembers was waking up nude on his bed. She testified that she asked him what happened, and he stated nothing; and he kept going back and forth as to whether they had sex; and he eventually said "no." She testified that she does not recall what occurred after drinking the tea. Three days after the incident, she testified she called the Kalamazoo Police Department and told them that she was possibly raped, but they said if there is no evidence, there is nothing they could do. She testified she did not file a police report right away because she believed the alleged absent parent that nothing happened. On or about November 2015, she testified she found out she was pregnant. She testified that she spoke to the doctors and had an ultrasound, in which they stated that she could not have gotten pregnant in October 2015, but instead, she became pregnant mid to end of September 2015. As such, she testified that she thought her boyfriend was the father of Child A because that is who she was having sexual relations at the time. In November 2015, she had a drug test during the first trimester; and it was discovered she was positive marijuana in her system; but she testified she did not find out these results until after Child A was born on July 2, 2016. [Exhibit A, pp. 67-130.] When she found out of the positive drug test, she testified that is when she suspected something happened with the alleged absent parent and resulted in her having a DNA test to see if the boyfriend was the father of Child A. After discovering the boyfriend

was not the father, she testified that is when she believed the sexual assault occurred and filed a police report.

As to the police report, she was informed that Kalamazoo Police Department could not do the police report as the incident occurred in [REDACTED] Indiana. Thus, she filed the report with the [REDACTED] Police Department on August 24, 2016. [Exhibit A, pp. 25-30.] She indicated that the prosecutor and/or police could not pursue the case due to lack of physical evidence and because the incident occurred awhile back. She then testified as to the good cause claim that she is in fear of her and her children because she does not feel the alleged absent parent should be involved due to the rape, and she mentally cannot handle this. She testified that she had to be in the hospital four to five times for this incident due to anxiety, and she has been receiving counseling from YWCA. After this incident, she testified that she also realized that there were other incidents with the alleged absent parent that she did not feel well after eating with him. She testified that she was been in contact with OCS as to the process with the good cause claim.

During cross-examination, the Department's Counsel asked her questions regarding her testimony concerning the doctor's/ultrasound revealing she was pregnant in mid-September 2015; yet, she claims the date of conception occurred on or about October 27, 2015. It should be noted that the Department presented evidence showing that due date was July 19, 2016, and that the date of conception was October 27, 2015. [Exhibit A, pp. 57-60.] The Department's Counsel also questioned Petitioner's testimony that she ended the relationship with the alleged absent parent six to eight months before the incident in October 2015; yet, the police report stated she ended the relationship with him in September 2015. In response, Petitioner indicated that few things were incorrect in the police report. Petitioner also provided responses to the Department's Counsel regarding the positive test from marijuana when it was collected on December 14, 2015. [Exhibit A, pp. 67-69.] She indicated that the alleged absent parent drugged her, and it stayed in her system approximately six weeks after the incident. She testified that she did not have a rape kit conducted, and she did not file a police report right away (until ten months later). As to the contact with OCS on March 6, 2017, she testified that she told OCS that she did not have any more information to give due to her pending good cause claim.

Testimony of [REDACTED] on August 3, 2017

Petitioner's Counsel then called Petitioner's witness, Ms. Bitler, to provide testimony. She testified that she is a clinical therapist from YWCA and provides services to Ms. Bitler due to her sexual assault. She testified she has been treating Petitioner since March of 2017. She testified Petitioner suffers from depression and anxiety due to the incident. She testified that she isolates herself from family due to the incident. She testified that not filing police reports right away can be typical behavior of victims of sexual assault. On cross examination, she testified that some victims of sexual assault report right after being assaulted.

Conclusion

The undersigned has carefully considered and weighed the testimony and other evidence in the record. BAM 600 indicates that the undersigned must determine whether the actions taken by the local office are correct according to fact, law, policy and procedure. BAM 600 (April 2017), p. 36.

Based on the foregoing information and evidence, the undersigned finds that Department established that (i) it properly denied Petitioner's claim of good cause for not cooperating with OCS and (ii) that she failed to cooperate with OCS resulting in the reduction/termination of her benefits.

First, policy states that the Department bases Petitioner's credibility determination of good cause based on available information, including client statement and/or collateral contacts with individuals who have direct knowledge of the client's situation. BEM 255, p. 5. In this case, the Department did not find Petitioner's claim for good cause credible and denied it. The undersigned agrees. During the hearing, Petitioner provided inconsistent testimony as to the events that occurred on the date of her alleged sexual assault, which is the basis for her good cause claim. For example, Petitioner testified that she ended her relationship with the alleged absent parent six to eight months before the alleged sexual assault. Yet, the police report indicated, "...she ended the relationship in September of 2015." [Exhibit A, p. 27.] The undersigned finds this to be inconsistent testimony because she is claiming the relationship ended six to eight months before the incident at the hearing; but the police report indicated that she stated it ended one-month prior. Another example of Petitioner's testimony that the undersigned finds questionable is the date of her conception. Petitioner testified that the doctor's/ultrasound revealed that she was pregnant in mid-September 2015; however, her testimony/police report indicated the alleged conception date occurred on or about the date of the incident, which was October 27, 2015. This is more than a month after her doctor's/ultrasound revealed that she was pregnant. Thus, the undersigned finds Petitioner's testimony of the alleged sexual assault questionable as her own testimony revealed the discrepancies. The above examples shows how Petitioner's testimony concerning the alleged sexual assault is unclear, inconsistent, and questionable. As such, the undersigned agrees with the Department's determination that it did not find Petitioner's claim of good cause credible.

Furthermore, the police report stated the following:

After reviewing this case there is no physical evidence at all. The Victim [Petitioner] claims this happened ten months ago and just now filed the case when a paternity test revealed that her current boyfriend is not the father. I called the Victim and explained to her that without any evidence to go on, the case boils down to a he said-she said situation and that is not enough for criminal court...

[Exhibit A, p. 30.] The undersigned understands that the burden of proof is different in a criminal proceeding, but at the same time, the prosecutor/police did not pursue a criminal case against the alleged absent parent. Petitioner did not obtain a rape kit right

away, which would have provided physical evidence following an allegation of sexual assault. Petitioner's inability to obtain a rape kit and the police report indicating there is no physical evidence of a sexual assault, fails to support Petitioner's claim for the two types of good cause that can be pursued (cases in which (i) establishing paternity/securing support would harm the child and (ii) there is danger of physical or emotional harm to the child or client). See BEM 255, pp. 3-4.

In summary, based on the above findings of fact, Petitioner's inconsistent/questionable testimony, and the police report, including the presence of no physical evidence of a sexual assault, the Department has proven by a preponderance of evidence that it properly denied Petitioner's claim of good cause in accordance with Department policy. BEM 255, pp. 3-7 and 18-19.

Second, because the evidence established that Petitioner failed to provide a good cause claim for not cooperating, it also shows that she is not cooperating with OCS resulting in a reduction/termination of her benefits. The undersigned acknowledges that OCS correspondence was not sent to her proper apartment address (i.e., First Customer Contact Letter). [Exhibit A, pp. 157-170.] Nonetheless, the undersigned finds this to be harmless error because Petitioner was in contact with OCS anyways during this entire incident. The evidence shows that she was in contact with OCS from or about July 29, 2016, to on or about May 8, 2017. [Exhibit A, pp. 157-158.] Mr. Koteles's testimony established that Petitioner was not cooperating with OCS. For example, on March 6, 2017, Petitioner called OCS regarding the noncooperation and said all she knows about the alleged absent parent is his name, which she provided, Child A was conceived by rape, and she had no more information. [Exhibit A, pp. 157-158.] Policy, though, states that cooperation is required in all phases of the process to establish paternity and obtain support, including providing all known information about the absent parent. BEM 255, p. 9. Mr. Koteles credibly established that Petitioner offered no helpful information to verify his identify, which therefore, shows to the undersigned that Petitioner was not cooperative in all phases of the OCS process. See BEM 255, p. 9. As such, the undersigned finds that the evidence and testimony established that the Department properly terminated Petitioner's FIP benefits and properly disqualified her from receiving FAP benefits based on her noncooperation with OCS. See BEM 255, pp. 13-14.

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 (i) the Department properly denied Petitioner's claim of good cause for not cooperating with OCS; (ii) the Department acted in accordance with Department policy when it closed Petitioner's FIP benefits effective June 1, 2017, based on failure to cooperate with OCS; and (iii) the Department properly disqualified Petitioner from receiving FAP benefits effective June 1, 2017, based on failure to cooperate with OCS.

Accordingly, the Department's FAP and FIP decision is **AFFIRMED**.

EJF/jaf



Eric J. Feldman
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

Counsel for Respondent

Daniel Beaton Jr
Department of Attorney General

Counsel for Respondent

Emanuel Awuta-Coker
Department of Attorney General

DHHS

Kalamazoo

Counsel for Petitioner

Alesha Burnash
491 W South St
Kalamazoo MI 49007

Via USPS

Petitioner

[REDACTED]
[REDACTED]
[REDACTED] MI [REDACTED]