



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: December 5, 2017
MAHS Docket No.: 17-014536
Agency No.: [REDACTED]
Petitioner: [REDACTED]

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 December 4, 2017, from Detroit, Michigan. Petitioner was present and represented herself. The Department of Health and Human Services (Department) was represented by Chantel Wilbon, Hearing Facilitator, and Anissa Ali, Lead Child Support Specialist.

ISSUE

Did the Department properly decrease Petitioner's Food Assistance Program (FAP) benefits 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. Petitioner was an ongoing FAP benefit recipient.
2. On October 20, 2017, OCS sent Petitioner a Noncooperation Notice (Exhibit H).
3. On October 24, 2017, 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.
4. On October 26, 2017, Petitioner submitted a request for hearing disputing the Department's actions.

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 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, OCS sent Petitioner a First Customer Contact letter on August 17, 2017 (Exhibit C). On August 27, 2017, Petitioner submitted a Child Support Response Form, indicating the father of the child in question was unknown. On August 28, 2017, Petitioner contacted OCS and stated she went to a house party and slept with an unknown individual. On the same date, Petitioner spoke with another OCS worker and stated she met a man at bar and that she did not know any other identifying information other than that he was African American. The Department sent Petitioner another First Customer Contact letter and a Final Customer Contact letter on October 1, 2017, and October 11, 2017, respectively. OCS resent the letters in an effort to allow Petitioner more time to gather information on the potential father. However, Petitioner did not respond. As a result, the Department sent Petitioner a Noncompliance Notice on October 20, 2017.

On November 7, 2017, Petitioner contacted OCS and stated that she believed the father was a Caucasian male. Petitioner stated that while walking, she was invited to a party. She was transported to an outdoor party in a van. Petitioner stated she met an unknown Caucasian male at the party and they had intercourse. Petitioner stated she did not know the potential father's name, nor the names of any of the other individuals at the party. Petitioner was also unaware of the location of the residence where the party was held. Due to the lack of information regarding a potential father, as well as the

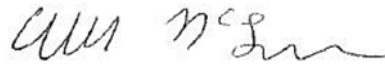
inconsistent statements provided by Petitioner, the Department continued to maintain Petitioner in noncooperation status.

At the hearing, Petitioner stated she believed the father of her child was the Caucasian male she met at the outdoor party. Petitioner reiterated the narrative provided to OCS. Petitioner stated she did not know the name of either the Caucasian male or the African American male, the location where she met them, or any other identifying information.

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 recall a single detail about either interaction with the two potential fathers that would lead to their identity. 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.

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. Accordingly, the Department's decision is **AFFIRMED**.



EM/

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

DHHS

MDHHS-Genesee-6-Hearings

Department Representative

MDHHS-OCS-Hearings

Petitioner



BSC4
M Holden
D Sweeney
E McLemore
MAHS