



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: December 18, 2017
MAHS Docket No.: 17-014945
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 14, 2017, from Detroit, Michigan. Petitioner was present and represented herself. The Department of Health and Human Services (Department) was represented by Ann Vielez, Family Independence Specialist, and Renee Boucher, Lead Specialist with the Office of Child Support (OCS).

ISSUE

Did the Department properly decrease Petitioner's Food Assistance Program (FAP) benefits and close her Family Independence Program (FIP) benefit case for failing to cooperate with 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 and FIP benefit recipient.
2. On October 26, 2017, OCS sent Petitioner a Noncooperation Notice (Exhibit F).
3. On October 27, 2017, the Department sent Petitioner a Notice of Case Action informing Petitioner that her FAP benefits were decreasing, and her FIP benefit case was closing, effective December 1, 2017, ongoing for her failure to cooperate with OCS.

4. On November 14, 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 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.

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, Petitioner gave birth to her child on [REDACTED], 2007. Petitioner initially named an individual as the father. However, that individual was excluded as the father by genetic testing. OCS was not active with the case until January 26, 2010. Petitioner was initially placed in noncooperation status in July 2010. Petitioner contacted OCS in July 2010 and stated she did not know the identity of the child's father. OCS placed Petitioner back into cooperation status to allow her time to obtain additional information as to the identity of the child's father. Petitioner did not provide additional information at that time.

OCS reactivated the case on August 13, 2014. On September 14, 2014, Petitioner was placed in noncooperation status. On September 26, 2014, Petitioner contacted OCS

and stated the child's next possible father was the father of her other two children. Petitioner was placed back into cooperation status. Genetic testing was not completed at that time.

On October 6, 2017, Petitioner contacted OCS and stated the father of her other two children was not the father of the child in question. The Department sent Petitioner a First Customer contact letter on October 6, 2017, (Exhibit D), and a Final Customer Contact Letter on October 16, 2017, (Exhibit E). Petitioner contacted OCS on October 24, 2017. Petitioner stated that the father of her child was a man that went by the name, "[REDACTED]." Petitioner stated that "[REDACTED]" was the individual's street name and that she did not have any other identifying information. As a result, OCS sent Petitioner a Noncooperation Notice on October 26, 2017. On October 27, 2017, the Department sent Petitioner a Notice of Case Action informing Petitioner that her FAP benefit case was being reduced and her FIP benefit case was closing effective December 1, 2017, ongoing, for her failure to cooperate with OCS.

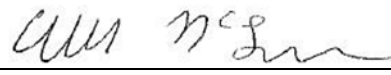
At the hearing, Petitioner stated she was unsure as to the identity of the father of her child. Petitioner stated she initially thought the father of her child was the individual that was excluded by genetic testing. When OCS requested information of another potential father, Petitioner stated the father was the father of her other two children. Petitioner stated the father of the other two children is not the father of the child in question. When asked why Petitioner disclosed that individual as the potential father, even though she knew he was not the father, Petitioner stated "they asked for a name and he was a name to give." Petitioner testified she attempted to ascertain "[REDACTED]" legal name through Facebook and by asking friends in common. Petitioner stated she was unable to determine his true identity.

Petitioner's testimony that she gave OCS all known information regarding the child's putative father was not credible, as she provided several inconsistent statements regarding the identity of the child's father. Additionally, Petitioner was provided several opportunities to gather information regarding the identity of the child's father going back to 2010. There was insufficient evidence that Petitioner undertook reasonable efforts to obtain accurate information. Therefore, the Department established that Petitioner was not compliant with OCS. Failure to cooperate without good cause results in disqualification of the individual who failed to cooperate from the FAP group. BEM 255, p.14. Thus, the Department acted in accordance with policy when it continued to exclude Petitioner from the FAP group and closed her FIP benefit case.

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 when it continued to exclude Petitioner from the FAP group and closed her FIP benefit case. 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

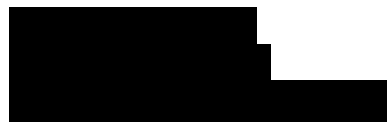
Department Representative

MDHHS-OCS-Hearings

DHHS

MDHHS-Macomb-12-Hearings

Petitioner



BSC4
B Cabanaw
M Holden
D Sweeney
E McLemore
MAHS