



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: January 17, 2018
MAHS Docket No.: 17-014315
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 January 10, 2018, from Detroit, Michigan. Petitioner was present and represented herself. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearing Facilitator, and [REDACTED], Lead Child Support Specialist.

ISSUE

Did the Department properly close Petitioner's Family Independence Program (FIP) benefit case due to her failure to comply 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 FIP recipient.
2. On May 3, 2017, Petitioner submitted a DHS-2168 Claim of Good Cause with a written statement (Exhibit D).
3. On May 3, 2017, the Department sent Petitioner a Verification Checklist (VCL) requesting proof of her claim of good cause (Exhibit E).
4. On August 29, 2017, the Department denied Petitioner's request for good cause.
5. On September 22, 2017, OCS sent Petitioner a Noncooperation Notice (Exhibit B).

6. On September 23, 2017, the Department sent Petitioner a Notice of Case Action informing her that her FIP benefit case was closing effective November 1, 2017, ongoing, for her failure to comply with OCS (Exhibit F).
7. On October 31, 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.

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 submitted a DHS-2168 Claim of Good Cause on May 3, 2017, to seek an exception to the OCS cooperation requirement. Along with the claim of good cause, Petitioner submitted a statement stating the conception of her child was a result of assault.

Exceptions to the cooperation requirement are allowed for all child support actions except when the recipient fails to return assigned child support payments received after the support certification effective date. BEM 255, p. 2. There are two types of good cause. The first is cases in which establishing paternity/securing support would harm the child including: (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 of good cause is cases in which there is

danger of physical or emotional harm to the child or client. BEM 255, pp. 3-4. When claiming good cause, the Department will request evidence of the good cause. BEM 255, p. 5. If written evidence does not exist, the Department will determine if the claim of good cause is credible. BEM 255, p. 5. The Department will base its 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.

On May 3, 2017, the Department sent Petitioner a Verification Checklist (VCL) requesting proof of good cause including any court records, counseling records, police records or medical records (Exhibit E). Petitioner never submitted any documentation to support her claim of good cause. As a result, the Department denied Petitioner's claim of good cause. On September 3, 2017, and September 13, 2017, the Department sent Petitioner contact letters. Petitioner did not respond. As Petitioner did not respond to the contact letters and did not establish good cause, OCS sent Petitioner a Notice of Noncooperation Notice on September 22, 2017. On September 23, 2017, the Department sent Petitioner a Notice of Case Action informing her that her FAP benefits were decreasing effective November 1, 2017, ongoing, for her failure to cooperate with OCS.

Petitioner testified that she contacted the police department, but a police report was never made. Petitioner stated she did not notify any other individuals of the assault, other than a friend. As such, no supporting documentation exists. BEM 255 specifically states that if documentation does not exist, the Department must make a credibility assessment of the client's claim of good cause. The Department stated that Petitioner's good cause claim was denied because she failed to submit supporting documentation. There was no evidence presented that the Department made a credibility determination as to the veracity of Petitioner's statements related to the claim of good cause. Therefore, the Department failed to establish that it properly followed policy when processing Petitioner's claim of good cause.

DECISION AND ORDER

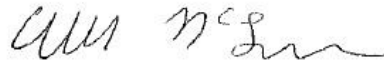
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it processed Petitioner's good cause claim.

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. Reprocess Petitioner's good cause claim;

2. If good cause is established and Petitioner is eligible for benefits, issue supplements she was entitled to receive but did not as of November 1, 2017, ongoing;
3. Notify Petitioner of its decision in writing.



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

[REDACTED]

Department Representative

[REDACTED]

Petitioner

[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
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