



RICK SNYDER  
GOVERNOR

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

SHELLY EDGERTON  
DIRECTOR

[REDACTED]  
[REDACTED]  
[REDACTED]

Date Mailed: March 1, 2018  
MAHS Docket No.: 18-000937  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Amanda M. T. Marler**

**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 February 28, 2018, from Detroit, Michigan. The Petitioner was self-represented. The Department of Health and Human Services (Department) was represented by [REDACTED], Eligibility Specialist, [REDACTED], Lead Child Support Specialist, and [REDACTED], Eligibility Specialist and Hearings Coordinator.

**ISSUE**

Did the Department properly disqualify Petitioner from her Food Assistance Program (FAP) group for noncooperation with the Office of 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 provided two names for individuals who might be the father of her child.
2. On May 14, 2014, one of the individuals was determined not to be the father of her child.
3. On April 20, 2016, the second individual was determined not to be the father of her child.
4. On May 26, 2016, the Office of Child Support (OCS) sent Petitioner a First Customer Contact Letter requesting information about Petitioner, her child, and the absent parent; Petitioner did not respond.

5. On June 5, 2016, the OCS issued a Final Customer Contact Letter again requested information about Petitioner, her child, and the absent parent by June 13, 2016; Petitioner did not respond timely.
6. On June 13, 2016, the OCS issued a Noncooperation Notice for failure to respond to both notices.
7. On June 15, 2016, Petitioner contacted OCS and told them that she did not know who the father of her child was and had provided all potential fathers that she could remember.
8. On January 15, 2018, Petitioner reiterated to OCS that she did not know who the absent parent was.
9. On January 18, 2018, Petitioner requested a hearing disputing her removal from the FAP group.

### **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.

In this case, Petitioner requested a hearing disputing the Department's action in removing her from the FAP group after a finding of noncooperation by the OCS. Department policy requires the custodial parent of a child to comply with all requests for action or information needed to establish paternity and/or obtain child support on behalf of a child for whom they receive assistance, unless a claim of good cause for not cooperating has been granted or is pending. BEM 255 (January 2018), p. 1. Failure to cooperate, with the Office of Child Support, without good cause, results in disqualification of the individual who failed to cooperate. The individual and her needs are removed from the FAP EDG for a minimum of one month and the remaining eligible group members will receive benefits. BEM 255, (January 2018), p. 14. The purpose and reasoning for these policies is because parents have a responsibility to meet their children's needs by providing support and/or cooperating with the department, including the 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.

Petitioner had attempted to comply with the OCS well in advance of the issuance of the First and Final Contact Notices provided in this case. She had provided the names of two individuals whom she believed might be the father, but were later determined not to be. After both individuals were determined not to be the father, Petitioner could not remember anyone else that might be considered the father. Petitioner lost contact with the group of people with whom she had been hanging out around the time of conception. She was a teenager; and once she was pregnant, the others were no longer interested in being around her since she could not drink or party anymore. In addition, these were not people with whom she had regular contact from school or other community activity, they were people she met through others while partying.

Policy only requires that Petitioner cooperate by providing all known information to OCS. BEM 255, p. 9. Petitioner established that she has provided all known information about potential fathers and cannot think of anyone else that might be the father. OCS did not provide any evidence to show that Petitioner was withholding any information concerning her child's father warranting the continuation or implementation of noncooperation status. Therefore, the Department and OCS erred in finding Petitioner to be in noncooperation with OCS.

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 found Petitioner to be in noncooperation status.

### **DECISION AND ORDER**

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 OCS sanction applied to Petitioner's case on or about June 13, 2016;
2. Recalculate Petitioner's FAP benefits as of January 1, 2018 based upon her January 2018 request for hearing;

3. If Petitioner remains eligible for FAP benefits and is eligible for a greater FAP benefit rate than previously paid, issue supplements to Petitioner in accordance with policy from January 1, 2018 ongoing; and
4. Notify Petitioner in writing of its decision.



AM/

**Amanda M. T. Marler**

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]  
[REDACTED]

**Department Representative**

[REDACTED]  
[REDACTED]  
[REDACTED]

**Petitioner**

[REDACTED]  
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