



RICK SNYDER  
GOVERNOR

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

SHELLY EDGERTON  
DIRECTOR

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

Date Mailed: April 6, 2018  
MAHS Docket No.: 18-002327  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris**

**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 three-way telephone hearing was held on April 4, 2018, from Detroit, Michigan. The Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by [REDACTED], Family Independence Specialist and [REDACTED], Family Independence Manager.

**ISSUE**

Did the Department properly find the Petitioner in non-cooperation with the Office of Child Support (OCS)?

Is the Petitioner's hearing request regarding her removal from her FAP group timely?

**FINDINGS OF FACT**

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. The Department issued a notice of Case Action on June 14, 2016 decreasing the Petitioner's Food Assistance and removed the Petitioner from her FAP group due to Petitioner's failure to cooperate with child support requirements. The Notice advised the Petitioner to contact the Office of Child Support and provided a telephone number. Exhibit A
2. The Petitioner testified that she filed a hearing request on November 16, 2017 which the Department had no record of.

3. The Petitioner contacted her caseworker on February 16, 2018 inquiring why no hearing had been scheduled regarding the November 16, 2017 Hearing Request and advised the Department that she wanted a hearing regarding her non-cooperation with the Office of Child Support. Exhibit B.
4. The Petitioner was placed in non-cooperation with the Office of Child Support (OCS) which issued a Noncooperation Notice on June 13, 2016 due to the Petitioner's failing to respond to two letters sent to Petitioner at her then known address and not contacting the OCS. Exhibit C.
5. The Petitioner hearing request of November 16, 2017 and February 16, 2018 regarding her reduction of FAP benefits due to being found in Noncooperation with the OCS were untimely. The Petitioner's request for hearing challenging the OCS Noncooperation was not untimely.

### **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, the Petitioner requested a hearing regarding the OCS determination finding the Petitioner was in Noncooperation by OCS for noncooperation with child support cooperation requirements. To the extent that clients of the Department wish to cooperate and change their status to cooperation they may do so at any time, thus the hearing request regarding whether the Petitioner's current status of noncooperation with OCS is still correct and valid is an issue which can be heard. BEM 255 (January 2018). As explained at the hearing any such decision would only be effective prospectively from the date of the hearing going forward because the Petitioner did not appeal her original removal from the FAP group for noncooperation.

The Petitioner's hearing requests regarding her reduction of FAP benefits by Notice of Case Action dated June 14, 2016 and her verbal request on February 16, 2018 are untimely. The time to have requested a hearing has long since passed. The Notice in question clearly informed the Petitioner that she had 90 days of the mailing date of the

Notice to request a hearing and that her request must be received on or before September 12, 2016. Exhibit A.

Department policy in BAM 600 provides:

The client or AHR has 90 calendar days from the date of the written notice of case action to request a hearing. The request must be received in the local office within the 90 days; see *Where to File a Hearing Request*, found in this item.

**Note:** Unless otherwise stated elsewhere, computation of time for the purposes of administrative hearings is determined as follows:

- Time is measured in calendar days.
- The computation of time begins on the day after the act, event, or action occurs. (The day on which the act, event, or action occurred is **not** included.)
- The last day of the time period is included, unless it is a Saturday, Sunday, State of Michigan holiday, or day on which the State of Michigan offices are closed. (In such instances, the last day of the time period is the next business day.) The last day of the time period runs through the normal close of business. BAM 600 (January 2018, p. 6).

Thus, based upon BAM 600 the Petitioner's hearing requests were untimely as regard a decrease in Petitioner's FAP benefits due to noncooperation with OCS child support requirements.

As regards the issue with respect to whether the Department (OCS) is correct in continuing the Petitioner's status as noncooperative, the following evidence and testimony was presented. As a starting point, the custodial parent of a child must comply with all request for action or information needed to establish paternity and/or obtain child support on behalf of child for who they receive assistance unless a claim of good cause for not cooperating has been granted or is pending.

Failure to cooperate without good cause results in disqualification. Disqualification includes member removal, as well as denial or closure of program benefits, depending on the type of assistance. In this case the OCS removed the Petitioner from her FAP group after she was deemed noncooperative with OCS.

The reasons for a claim of good cause which excuses noncooperation include:

Cases in which establishing paternity/securing support would harm the child. Do **not** require cooperation/support action in any of the following circumstances:

The child was conceived due to incest or forcible rape.

Legal proceedings for the adoption of the child are pending before a court.

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.

Cases in which there is danger of physical or emotional harm to the child or client. Physical or emotional harm may result if the client or child has been subject to or is in danger of:

Physical acts that resulted in, or threatened to result in, physical injury.

Sexual abuse.

Sexual activity involving a dependent child.

Being forced as the caretaker relative of a dependent child to engage in non-consensual sexual acts or activities.

Threats of, or attempts at, physical or sexual abuse.

Mental abuse.

Neglect or deprivation of medical care.

**Note:** This second type of good cause may include instances where pursuit of child support may result in physical or emotional harm for a refugee family, or the absent parent of a refugee family, when the family separation was the result of traumatic or dangerous circumstances. This may also apply to individuals who are treated to the same extent as a refugee, including asylees and victims of trafficking. BEM 255 pp. 3-4

In this case, based upon the testimony of the Petitioner at the hearing, and the facts established at the hearing do not support a finding of good cause. The Petitioner who was a mother of three children and approximately 40 years of age testified that she did not know how she got pregnant and believed that it was at a [REDACTED] she attended in [REDACTED]. The Petitioner further testified that she does not remember anything from that party. The Petitioner suggested she may have been drugged. The Petitioner was at home the next day. She attempted to locate the [REDACTED] house and gave a street name where the house may have been. The Petitioner did not present at the emergency room after the party. The Petitioner became aware of her pregnancy about 4 months later and went to the doctor.

The Petitioner also had contact with the OCS on June 20, 2016 and the OCS notes indicate the following. The notes indicate that Petitioner did not know who the possible father was. The notes further indicate that that Petitioner told the OCS Support Specialist she spoke to that she was with two guys and only knew their first names. The Petitioner called OCS

back shortly after that conversation to verify OCS had notes of the conversation. Thereafter on October 11, 2017, the Petitioner contacted OCS again and told OCS that she had no information regarding the identity of the possible father and that she went to a party and the next thing she knew she was pregnant. Notes further indicate that the OCS specialist asked her if anyone at the party might know the possible father and Petitioner stated no, it was a long time ago. Exhibit C. The notes do not indicate that Petitioner was forced or coerced against her will to engage in sex with anyone which resulted in the conception of her child.

The OCS representative who appeared at the hearing read the notes of the June 20, 2016 telephone contact with Petitioner into the record, which was completed by OCS Specialist Burkes and confirmed the notes stating that Petitioner told OCS that she was with two men and only knew their first names.

Cooperation is a condition of eligibility. The following individuals who receive assistance on behalf of a child are required to cooperate in establishing paternity and obtaining support, unless good cause has been granted or is pending:

- Grantee (head of household) and spouse.
- Specified relative/individual acting as a parent and spouse.
- Parent of the child for whom paternity and/or support action is required.

Cooperation is required in all phases of the process to establish paternity and obtain support. 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).

In this case, after considering the all the evidence presented it is determined that the Petitioner's testimony as to how she became pregnant is not credible and conflicts with the statement given to OCS. Further, at no time did Petitioner demonstrate a serious effort to find the fraternity house and speak to anyone about the party and her actions during that time or what may have happened to her. Although the Petitioner disputes telling the OCS that she was with two men who she could only identify by their first name, it is highly unlikely that an OCS specialist would make up information and place it in the Petitioner's OCS record.

Unfortunately, based upon the evidence presented it must be determined that Petitioner must remain in noncooperation as her explanation regarding the events leading to her pregnancy given at the hearing were not credible and do not support a determination that all

known information was provided to OCS. In order for the OCS to make a determination some information must be available. In this case, in essence the Petitioner claims amnesia regarding the events of the night she attended the party and became pregnant, even though she went with a girlfriend and did not attempt to locate the fraternity house where the party occurred or make contact with anyone living there. This behavior by Petitioner does not indicate an interest in determining who the child's father might be. Further the fact that she told OCS that she was with two men only known by the first name without any further information would tend to support that Petitioner is withholding information under these facts.

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 found the Petitioner in noncooperation with child support requirements initially on June 13, 2016.

### **DECISION AND ORDER**

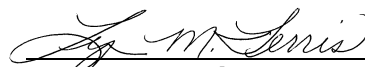
Accordingly, the Department's decision is **AFFIRMED**.

The Petitioner's hearing requests dated November 16, 2017 and February 16, 2017 regarding her removal from her FAP group due to noncooperation with OCS were untimely.

Accordingly, the Petitioner's request for hearing are hereby **DISMISSED**.

**IT IS SO ORDERED.**

LF/tm



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**Lynn M. Ferris**

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**

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