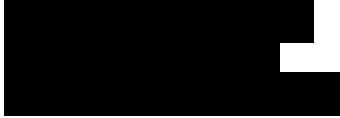




RICK SNYDER  
GOVERNOR

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

SHELLY EDGERTON  
DIRECTOR



Date Mailed: April 27, 2018  
MAHS Docket No.: 18-002479  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE:** Janice Spodarek

**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 4/24/18, from [REDACTED] Michigan. The Petitioner represented herself. The Department of Health and Human Services (Department) was represented by [REDACTED] [REDACTED] Hearings Facilitator. Witnesses included [REDACTED] [REDACTED] ES Worker, and [REDACTED] [REDACTED] Office of Child Support.

**ISSUE**

Did the Department properly sanction Petitioner's FAP and MA cases, and deny Petitioner's request for Direct Support Services due to non-cooperation with 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. At all relevant times, Petitioner has had FAP and MA cases open for her family.
2. On 3/8/16 Petitioner's child was born.
3. On 10/1/16 the Department disqualified Petitioner from the FAP group alleging Petitioner was non-cooperative with the Office of Child Support (OCS) on the grounds that she was not providing enough information on the father of her child born 3/8/16.
4. On 3/5/18 Petitioner applied for assistance with her Cost Share and applied for assistance with Direct Support Services (DSS) for vehicle repair." Ex. A.1.

5. On 3/8/18 Petitioner requested an administrative hearing stating that she "...does not know who the father of her child born 3/30/16 is..." Ex. A.1.
6. Petitioner receives SSI. It could not be clearly determined from Petitioner's testimony the impairment(s) for which Petitioner is a beneficiary of the SSI program. Petitioner completed the 5<sup>th</sup> grade. Petitioner testified that she completed "10 minutes of 6<sup>th</sup> grade."
7. At the end of the administrative hearing, the OCS, on its own motion, stated that it would no longer consider Petitioner in a non-cooperation status based on the testimony at hearing.
8. Vague or unclear testimony by Petitioner did not present as incredible or intentional but presented as genuine confusion and lack of knowledge due to mental capacity. Petitioner was a credible witness.

### **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.

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. The Department (formerly known as the Department of Human Services) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

The State Disability Assistance (SDA) program is established by the Social Welfare Act, MCL 400.1-.119b. The Department of Health and Human Services (formerly known as

the Department of Human Services) administers the SDA program pursuant to 42 CFR 435, MCL 400.10 and Mich Admin Code, R 400.3151-.3180.

The Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, 42 USC 601-619, 670-679c, and 1397-1397m-5; the Child Care and Development Block Grant of 1990, PL 101-508, 42 USC 9858 to 9858q; and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193. The program is implemented by 45 CFR 98.1-99.33. The Department administers the program pursuant to MCL 400.10 and provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001-.5020.

The State Emergency Relief (SER) program is established by the Social Welfare Act, MCL 400.1-.119b. The SER program is administered by the Department (formerly known as the Department of Human Services) pursuant to MCL 400.10 and Mich Admin Code, R 400.7001-.7049.

Direct Support Services (DSS) is established by the Social Welfare Act, MCL 400.1-.119b. The program is administered by the Department pursuant to MCL 400.10 and 400.57a and Mich Admin Code R 400.3603.

The State SSI Payments (SSP) program is established by 20 CFR 416.2001-.2099 and the Social Security Act, 42 USC 1382e. The Department administers the program pursuant to MCL 400.10.

In this case, the Department makes determinations regarding child support cooperation based on the overall facts and circumstances of a beneficiary's case. Failure to cooperate results in sanctions on various benefit programs. BEM 255 addresses the child support policy in general. The OCS also has its own policy and manual about making cooperation determinations.

The OCS witness here testified that there are certain exceptions to cooperation which will exempt an individual from the requirements and deem the individual cooperative. In this case, the OCS past assessments did not determine that Petitioner met any of those exceptions.

As noted in the Findings of Fact, after Petitioner's testimony, the OCS witness indicated that the OCS would be lifting the noncooperation sanction. The undersigned ALJ would agree that based on the testimony, Petitioner did not demonstrate that she should be found to be in a noncooperation status.

Based on the evidence of record, this ALJ must reverse the determination based on noncooperation. Petitioner has the right to have her sanction removed and any necessary reassessments for 90 days prior to her hearing request of 3/8/18. It would appear, based on the Department's hearing summary, that the sanction impacted FAP, MA, Cost Share, and Direct Support Services.

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 Petitioner met her burden of proof to establish that she did not fail to cooperate with the OCS and thus, the Department's actions must be reversed.

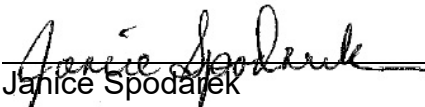
**DECISION AND ORDER**

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. The Office of Child Support is to remove Petitioner's non-cooperation status beginning 90 days prior to her hearing request, or 12/8/17, and notify and necessary parties in accordance with its policy and policy; and
2. The [REDACTED] DHHS office is to reassess Petitioner's eligibility for any and all requests and programs that the child support sanction has affected since 12/18/17, including FAP, MA, and DSS, and
3. Issue written notice to Petitioner informing her of the outcome of the Department's reassessment with regards to Petitioner's eligibility for the FAP, MA, and DSS programs, and any other(s), and
4. Issue any supplemental benefits to Petitioner to which she may be entitled for any and all programs affected by the noncooperation status, and
5. Keep Petitioner's eligibility continuing without a child support sanction in order for Petitioner to continue to receive any increase in benefit to which she may be entitled to with the sanction removed, if eligibility exists otherwise.

JS/nr

  
\_\_\_\_\_  
Janice Spodarek  
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]

**Authorized Hearing Rep.**

[REDACTED]