



RICK SNYDER  
GOVERNOR

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

SHELLY EDGERTON  
DIRECTOR

[REDACTED]  
[REDACTED]  
[REDACTED]

Date Mailed: April 30, 2018  
MAHS Docket No.: 18-002712  
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 April 25, 2018, from Detroit, Michigan. The Petitioner was self-represented. The Department of Health and Human Services (Department) was represented by [REDACTED], Family Independence Specialist, and [REDACTED], Lead Worker for the Office of Child Support (OCS).

**ISSUE**

1. Did the Department properly close Petitioner's Family Independence Program (FIP) benefits?
2. Did the Department properly reduce Petitioner's Food Assistance Program (FAP) benefits?

**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 involved in another hearing before the Michigan Administrative Hearing System (MAHS) regarding noncompliance with the OCS resulting in sanctions to both her FIP and FAP cases.
2. Ultimately, the decision issued after the hearing reversed the Department, and Petitioner was found to be in compliance with OCS.

3. Sometime prior to December 4, 2017, Petitioner provided the name of the potential father of her son, [REDACTED], to the OCS as well as some other identifying information including where she met him, how she met him, his reputation in the community, and his physical description.
4. OCS took that information and conducted a search which resulted in a match for a man by the name of [REDACTED], and he was ordered to take a paternity test; the test came back that [REDACTED] was not the father of Petitioner's child; and the child support case was dismissed on December 4, 2017.
5. Throughout this process, Petitioner knew that [REDACTED] was not the father because she had never met him; his name was not the name she provided to the Department, and because he was located in Ohio instead of the Maryland/D.C. area where Petitioner lived at the time of conception; but she did not alert the Department or OCS for fear of a finding of noncooperation again.
6. In February 2018, OCS opened another case against Petitioner seeking to find the correct father since [REDACTED] was found not to be the father.
7. On February 13, 2018, the OCS issued a First Customer Contact Letter seeking information about Petitioner's son's father.
8. On February 23, 2018, the OCS issued a Final Customer Contact Letter seeking information about Petitioner's son's father.
9. On March 3, 2018, Petitioner submitted a Child Support Response Form online, again listing her son's father as [REDACTED].
10. The next day, on March 4, 2018, the OCS issued a Noncooperation Notice.
11. On March 6, 2018, the Department issued a Notice of Case Action alerting Petitioner to the closure of her FIP benefits and reduction of FAP benefits, effective April 1, 2018, for failure to cooperate with the OCS.
12. On March 8, 2018, the Department received Petitioner's hearing request disputing the closure of her FIP benefits, reduction of FAP benefits, and closure of Medical Assistance (MA) benefits.
13. At the hearing, Petitioner requested to withdraw her hearing request as it related to the closure of her MA benefits as she did not intend to request a hearing for MA at that time.

### **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).

#### Medical Assistance Program

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.

At the hearing, Petitioner requested to withdraw her request for hearing on the issue of her MA benefits. She testified that she did not intend to include MA as an issue in this case. Having found good cause, Petitioner's request for withdraw of the MA portion of her hearing request is approved.

#### Family Independence Program and Food Assistance Program

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.

In this case, Petitioner's FIP case was closed and FAP benefits reduced based upon noncompliance with 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 (April 2018), p. 1. Failure to cooperate with the OCS, without good cause, results in disqualification of the individual who failed to cooperate. BEM 255, p. 2. Disqualification includes member removal, as well as denial or closure of program benefits, depending on the type of assistance. *Id.*

In a FIP case, any individual required to cooperate who fails to cooperate without good cause causes group ineligibility for a minimum of one month. BEM 255, p. 13. In a FAP

case, 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, 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.

Cooperation is defined as 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 provided the Department with the name of a man whom she believes to be the father of her child. She testified that she is 100% certain that he is the father, and there are no other possible fathers. She lost touch with him about six months after her son was born. Petitioner had invited him to a religious ceremony for her son, and ██████ told her that he would try to attend, but ultimately he did not. After that, he refused to answer her calls and did not respond to her attempts to contact him. Petitioner then moved to Michigan around the time her son was three turning four in 2014. She has been in Michigan ever since. Petitioner does not know where ██████ is but believes he is originally from ██████ because that is where his friends were from.

Petitioner does not know ██████, the man OCS tested for paternity. She does not know why the OCS tested ██████ because ██████ obviously has a different last name than the one she had provided. In addition, when she was informed of the paternity testing, ██████ was found in Ohio; but Petitioner had lived and met ██████ in the Maryland/D.C. area, nowhere near Ohio.

In consideration of Petitioner's consistency in all communications about her son's father, Petitioner appears to be credible.

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 the potential 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. The Department's only evidence is that the man they tested for paternity was not the father of Petitioner's son. Since the name provided by Petitioner does not match the name of the man tested, it would make sense that he is not the father. Therefore, the OCS erred in finding Petitioner to be in noncooperation. By extension, the Department erred in closing Petitioner's FIP case and reducing her FAP benefits.

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 did not act in accordance with Department policy when it closed Petitioner's FIP case and reduced her FAP benefits.

**DECISION AND ORDER**

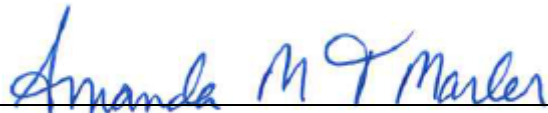
Petitioner's request to withdraw the MA portion of her hearing request is approved. **The MA request for hearing is dismissed.**

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 FIP and FAP case on or about March 6, 2018;
2. Recalculate Petitioner's FAP benefits as of April 1, 2018;
3. If Petitioner remains eligible for FAP benefits and is eligible for a greater FAP benefit rate than previously issued, issue supplements to Petitioner in accordance with Department policy from April 1, 2018, ongoing;
4. Reinstate and recalculate Petitioner's FIP benefits from April 1, 2018;
5. If Petitioner is eligible for FIP benefits, issue supplements to Petitioner in accordance with Department policy from April 1, 2018, ongoing; and
6. Notify Petitioner in writing of its decision.

AM/

  
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**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

