



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: June 1, 2018
MAHS Docket No.: 18-003952
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 telephone hearing was held on May 29, 2018, from Detroit, Michigan. The Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearing Facilitator.

ISSUE

Did the Department properly deny the Petitioner's application for State Emergency Relief (SER) due to Noncooperation with the Office of Child Support (OCS)?

Did the Department properly remove the Petitioner from her Food Assistance (FAP) case due to Noncooperation 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. The Petitioner applied for SER on April 9, 2018. The Department denied the application on April 10, 2018 due to failure of Petitioner to cooperate with child support requirements. Exhibits A and B.
2. The Department issued a Notice of Case Action on April 20, 2018 and removed the Petitioner from her FAP group due to noncooperation with the OCS. Exhibit C.
3. The OCS sent the Petitioner a First Customer Contact Letter on June 25, 2017 requesting that Petitioner provide the full name, date of birth social security number,

last known address and physical description. The OCS did not receive a response to the first letter which was sent to the correct address. Exhibit 1.

4. The Department sent a Final Customer Contact Letter on July 5, 2017. The Petitioner did not respond to the letter which was sent to the Petitioner's correct address. Exhibit 1.
5. On July 14, 2018, the Department sent a Noncooperation Notice due to the Petitioner's failure to respond to First Contact Letter and Final Contact Letter and provided no information regarding the identifying information about the parents not in the home. The letter also advised the Petitioner that she could claim good cause. Exhibit 2.
6. On April 17, 2018, the Petitioner contacted the Office of Child Support and advised that the absent parent's name was [REDACTED] whom she met at a party and had sex with him, became pregnant, and had no other information to offer.
7. The Petitioner requested a timely hearing April 20, 2018 protesting 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 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.

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.

In this case, the Petitioner requested a hearing regarding the OCS determination finding the Petitioner was in Noncooperation by OCS for failing to provide information to identify the absent parent of her minor child other than a name, Jason Harris. The OCS issued a Notice of Noncooperation on July 14, 2017 due to the Petitioner failing to respond to the OCS letters of inquiry. To the extent that clients of the Department wish to cooperate and change their status to cooperation they may do so at any time. BEM 255 (January 2018). The Petitioner also challenged her removal of herself as a FAP group member and the Department's denial of her SER application. The Petitioner did not challenge the amount of her FAP allotment only the FAP group size.

The Department is required to remove a FAP group member who is in noncooperation with OCS when it receives a Notice of Noncooperation.

Bridges applies the support disqualification when a begin date of non-cooperation is entered and there is no pending or approved good cause. The disqualification is not imposed if any of the following occur on or before the timely hearing request date; see BAM 600, Hearings:

- OCS records the comply date.
- The case closes for another reason.
- The non-cooperative client leaves the group.
- Support/paternity action is no longer a factor in the child's eligibility (for example, the child leaves the group).
- Client cooperates with the requirement to return assigned support payments to DHS and the support is certified.
- Client requests administrative hearing. BEM 255 (April 2018 p. 11-12).

In addition, a client who is found in Noncooperation with OCS is also deemed ineligible for SER:

When a SER group member has been denied or terminated assistance for failure to comply, when able, with a procedural requirement of FIP, SDA or SSI, the group is not eligible for SER. Groups that are non-cooperative with the Office of Child Support are also ineligible for SER.

SER ineligibility continues as long as the group member fails or refuses to pursue potential resources. Sanctioned groups that are able to comply are ineligible for SER until they comply. ERM 203 (June 2013), p. 2.

Thus, it is concluded that the Department based upon the July 14, 2017 Notice of Noncooperation correctly removed the Petitioner from the FAP group and properly denied the Petitioner's SER application due to her noncooperation status with OCS.

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

1. 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.

2. 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 (April 2018) pp. 2-5

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). BEM 255, p. 19

In this case, based upon the testimony of the Petitioner at the hearing and the facts established at the hearing, does not support a finding of good cause because the Petitioner did not assert any such claim with respect to the conception of the child in question.

The Petitioner was a mother of four children at the time of the incident giving rise to her pregnancy and testified that she was drunk and was at a block party of the West side of the City of ██████. The Petitioner further testified that she does not remember anything from that party and any of the people other than a personal friend ██████ who went with her to the party. The Petitioner did recall being introduced to the man who she had sex with and that his name was ██████. In addition, she testified that she had sex with him in her own black van during the party. The Petitioner could not determine the date of conception when asked by the undersigned, testifying that she could not give an exact date and offered no further information. She further testified that she did not attempt to locate anyone at the party, even though her personal friend knew people at the party. The Petitioner further testified that she made no attempt to determine who the man was. When she initially contacted the OCS, she gave the man's name, ██████ and that she met

him while she was at a party on the West Side of [REDACTED]. At the hearing, the Petitioner did not describe the man's physical characteristics and could not provide the color of his eyes when asked by OCS and offered no identifying information such as where he lived. The Petitioner was advised by OCS that the information she provided was insufficient and they needed more information so they could attempt to identify the absent parent of her child. The OCS was unable to identify the individual identified by Petitioner. The Petitioner testified that OCS suggested that she go back to where the party was to seek more information but declined stating that she was embarrassed enough about the pregnancy. The Petitioner further testified that two of her children receive child support their fathers and is aware of the system. She said there was nothing she could do, stating she does not know who he is. The Petitioner when asked where the party was that night testified that she was on [REDACTED] Street in Detroit. The Petitioner acknowledged that she "did wrong" but did not want her child to suffer for it.

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In this case after considering the all the evidence presented it is determined that the Petitioner's testimony as to how she became pregnant and based upon her ability to recall the man's name but no other details about the incident, it is determined that Petitioner's testimony is not credible and that she did not disclose all the information regarding the event and the absent father of her child. Further, at no time did Petitioner demonstrate a serious effort or any attempt to find the man she identified as [REDACTED] or indicate that she spoke to her personal friend who was invited to the party and might know about the party and the man she was with.

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 indicates that she did not disclose sufficient information or attempt to obtain same and does 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 due to being drunk

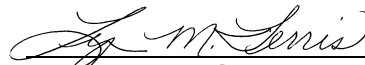
regarding the events of the night she attended the party and became pregnant, even though she went with a girlfriend and did not attempt to locate any of her girlfriend's friends to get more information regarding the man she had sex with. It seems unreasonable that Petitioner had sex with a man whose name she recalled and further recalls having sex in her van but offered no identifying information regarding the man's height, eye color, or age. This behavior by Petitioner does not indicate an interest in determining who the child's father might be.

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 Office of Child Support acted in accordance with Department policy when it found the Petitioner in noncooperation with child support requirements initially on July 14, 2017 and based upon the Noncooperation with OCS, removed the Petitioner from her FAP group and denied the Petitioner's application for SER.

DECISION AND ORDER

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

LF/tm



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) 763-0155; 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]
[REDACTED]
[REDACTED]

Petitioner

[REDACTED]
[REDACTED]
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cc:

[REDACTED]
[REDACTED]
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