



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

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Date Mailed: June 12, 2018
MAHS Docket No.: 18-004040
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 June 7, 2018, from Detroit, Michigan. The Petitioner was self-represented and appeared with her daughter [REDACTED] (Adult Daughter) as a witness; Adult Daughter filed the hearing request on behalf of her mother as it relates to Adult Daughter's portion of the case. The Department of Health and Human Services (Department) was represented by Yvonne Jafter, Family Independence Manager, and Theresa Sharpe, Leader Worker for the Office of Child Support (OCS).

ISSUE

Did the Department properly disqualify Adult Daughter from the Food Assistance Program (FAP) group based upon noncooperation with the 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. On April 1, 2017, the OCS issued a First Customer Contact Letter to Adult Daughter requesting information about her son's father.
2. On April 10, 2017, the OCS issued a Final Customer Contact Letter to Adult Daughter again requesting information about her son's father by April 18, 2017.
3. On April 19, 2017, the OCS issued a Noncooperation Notice to Adult Daughter.
4. Adult Daughter was disqualified from the FAP group.

5. Adult Daughter became aware of the father's name in January 2018.
6. On April 3, 2018, approximately one year after the OCS letters, Adult Daughter contacted OCS but did not provide any identifying information to OCS about the father of her son.
7. On April 6, 2018, Adult Daughter contacted OCS again; and when she was asked why her son had a different last name than her, the line disconnected.
8. On April 26, 2018, Adult Daughter filed a hearing request on Petitioner's behalf disputing her own disqualification from the FAP group based upon noncooperation with OCS as well as the Child Development and Care (CDC) program and Family Independence Program (FIP) potential disqualifications.

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).

Family Independence Program and Child Development and Care Programs

Petitioner requested a hearing to dispute her disqualification from the FAP group and was attempting to preemptively avoid disqualification in the FIP and the CDC program. Petitioner and Adult Daughter had not yet submitted applications for the FIP or CDC programs. At the hearing it was explained to Petitioner and Adult Daughter that they could not request a hearing based upon a future potential action of the Department. It was further explained that they must apply for the program from which they need assistance and await a decision of the Department before they can request a hearing. Hearings are granted when any of the following situations exists:

- Denial of an application and/or supplemental payments.
- Reduction in the amount of program benefits or service.
- Suspension or termination of program benefits or service.
- Restrictions under which benefits or services are provided.
- Delay of any action beyond standards of promptness.
- For **FAP only**, the current level of benefits or denial of expedited service.

BAM 600 (April 2018), p. 5. After hearing the explanation of hearing rules, Petitioner requested to withdraw the hearing request as it related to the FIP and CDC cases. Therefore, the withdrawal of the hearing request is approved. The FIP and CDC requests for hearing are dismissed. The decision as it relates to the FAP case follows below.

Food Assistance Program

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, Adult Daughter was disqualified from the FAP group based upon noncooperation with 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 FAP case, the individual and her needs are removed from the FAP group 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, Adult Daughter admits that she became aware of her son's father's name in January 2018; yet when she spoke to OCS in April 2018, she did not provide the name to OCS. Adult Daughter did not provide all known information to the OCS as of the date of her hearing request. Therefore, her continued disqualification from the FAP group based upon noncooperation with OCS is proper.

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 continued Adult Daughter's disqualification

DECISION AND ORDER

Petitioner's hearing request as it relates to the **Family Independence Program (FIP)** and **Child Development and Care (CDC)** benefits is **DISMISSED**.

Accordingly, the Department's decision as it relates to the FAP case is **AFFIRMED**.



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) 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

Via Email

Office of Child Support (OCS)-MDHHS

Department Representative

Tara Roland 82-17
MDHHS-Wayne-17-Hearings

DHHS

Via First Class USPS

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Petitioner

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Authorized Hearing Rep