



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: July 18, 2018
MAHS Docket No.: 18-005802
Agency No.: ██████████
Petitioner: ██████████

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, an in-person hearing was held on July 16, 2018, from Detroit, Michigan. The Petitioner appeared for the hearing with her caseworker from Westside Mothers, Cassandra Walker, and her daughter ██████████ (Daughter). The Department of Health and Human Services (Department) was represented by Kathy Cameron, Family Independence Specialist, and Patricia Bregg, Office of Child Support Lead Worker.

ISSUE

Did the Department properly deny Petitioner's applications for the Family Independence Program (FIP), Child Development and Care (CDC) program, and Food Assistance Program (FAP) as a result of 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. On May 6, 2017, the OCS issued a First Customer Contact Letter to Daughter at an address on ██████████ in ██████████, Michigan requesting information about the absent parent of her child.
2. On May 16, 2017, the OCS issued a Final Customer Contact Letter to Daughter at the same address requesting information about the absent parent of her child.

3. On May 25, 2017, the OCS issued a Noncooperation Notice to Daughter at the same address.
4. In June of 2017, Daughter was removed from the FAP case of Petitioner.
5. On May 24, 2018, Petitioner submitted an application for FIP and CDC benefits.
6. On May 25, 2018, the Department issued a Verification Checklist (VCL) to Petitioner at an address on [REDACTED] [REDACTED] in [REDACTED] Michigan advising Petitioner's household to contact the OCS to comply with child support requirements.
7. On or about the same day, Daughter contacted OCS and advised the OCS worker that she did not know the name of the absent parent or where he was from, but she had a description of him; the OCS worker insinuated that the description was insufficient; and more information was necessary, then advised Daughter to contact her caseworker and request a hearing.
8. On June 4, 2018, the Department issued a Notice of Case Action denying Petitioner's FIP application based upon a failure to cooperate with the OCS in establishing paternity.
9. Petitioner's application for CDC benefits was also denied for the period from May 13, 2018, through May 26, 2018, based upon a refusal to cooperate with OCS; but the date of the denial and whether there was a continuing denial of CDC benefits is unclear from the evidence presented.
10. On June 5, 2018, Petitioner submitted a hearing request to dispute the finding of noncooperation with the OCS resulting in the denial of FIP and CDC benefits and removal of Daughter from their FAP case.

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 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.

In this case, Petitioner's application for FIP and CDC benefits was denied, and Daughter was removed from Petitioner's FAP case because the Department and the OCS found Daughter to be in noncooperation.

While Petitioner did not submit a new FAP application, or receive a new Notice of Case Action from the Department at the time of her request for hearing, policy provides that in FAP cases, a client may request a hearing disputing the current level of benefits at any time within the benefit period. BAM 600, p. 7. Therefore, Petitioner's request to review her FAP benefits and exclusion of Daughter from the FAP case based on noncooperation is in accordance with policy.

In each of these types of cases, the custodial parent or alternative caretaker of a child must comply with all requests for action or information needed to establish paternity and/or obtain child support on behalf of children 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 without good cause results in disqualification including member removal, denial of an application, or closure of program benefits. BEM 255, pp. 2, 13-14. Cooperation includes 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. BEM 255, p. 9. In FIP cases, cooperation also includes repaying the Department any assigned support payments received on or after the support certification effective date except periods when the child was not enrolled in FIP beginning on or after October 1, 2009. BEM 255, p. 10.

In this case, there was no evidence presented that Petitioner or Daughter were properly informed of the requirement to contact the OCS prior to Petitioner being removed from the FAP case in 2017. All three letters sent by the OCS to Daughter were sent to an address that Daughter has not lived at for approximately five years. In addition, Petitioner and Daughter are uncertain how OCS obtained that address because it was

never reported to the Department. When Daughter was living at the address in [REDACTED] [REDACTED] she was living with her grandmother and was not associated with any Department cases. The OCS indicated that the address was obtained through the computer interface between the Department and the OCS. However, all Department documents presented for the hearing were mailed to the Detroit address and not [REDACTED] [REDACTED]. Given this evidence, the Department has not shown that Petitioner or Daughter were properly informed of the requirement to contact the OCS in 2017.

In 2018, the Department issued a VCL to Petitioner at the [REDACTED] address informing Petitioner and Daughter that the OCS needed to be contacted to comply with child support requirements. On or about the same day as the VCL, Daughter contacted the OCS by phone. Daughter attempted to offer a description of the absent parent to the OCS worker, but the OCS worker appeared uninterested in the information unless Daughter could provide greater detail, such as a name, date of birth, or Social Security number. Daughter informed the OCS worker that she did not have this information because she had only met the man once. Daughter was then advised to contact her caseworker and request a hearing.

Once Petitioner and Daughter were adequately informed about the responsibility to contact OCS, Daughter promptly contacted the OCS. In addition, Daughter attempted to provide what information she had to the OCS, but it was ignored or deemed inadequate. Policy only requires a client to provide known information about the absent parent. She cannot be expected to provide information which is unavailable to her. Therefore, the Department's finding of noncooperation as of June 2018 was not in accordance with Department policy.

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 denied Petitioner's FIP and CDC applications for benefits in 2018 or continued to disqualify Daughter from the FAP case, each based upon noncooperation with the OCS.

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. Reinstate Petitioner's applications for FIP and CDC benefits as of May 24, 2018;
2. Redetermine Petitioner's eligibility for the FIP and CDC programs;

3. If otherwise eligible, issue FIP and CDC supplements to Petitioner or on Petitioner's behalf for benefits not previously received;
4. Reinstate Daughter to Petitioner's FAP case effective as of the date of Petitioner's request for hearing, June 4, 2018;
5. Recalculate Petitioner's FAP benefit rate;
6. If otherwise eligible, issue FAP supplements to Petitioner for benefits not previously received;
7. Notify Petitioner in writing of its decision.



AMTM/

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

DHHS

Deborah Little
MDHHS-Wayne-49-Hearings

Department Representative

MDHHS-OIG-Hearings

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