



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

██████████
██████████
██████████ MI ██████████

Date Mailed: July 30, 2018
MAHS Docket No.: 18-006293
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 5-way telephone hearing (all witnesses appeared via telephone from separate locations) was held on July 26, 2018, from Detroit, Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Ronetta Dalton, Pathways to Potential specialist. Raychael May, manager, and Tiffany Heard, child support lead worker, testified on behalf of MDHHS.

ISSUE

The issue is whether MDHHS properly disqualified Petitioner relating to Family Independence Program (FIP) and 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 an ongoing recipient of FAP and FIP benefits. Petitioner's ongoing FAP and FIP eligibility factored two minor children who shared the last name of their biological father.
2. On April 25, 2018, Petitioner gave birth to a child (hereinafter, "Child3"). Child3 shared Petitioner's last name.
3. On June 4, 2018, MDHHS mailed Petitioner a Notice of Case Action. The notice informed Petitioner of a termination of FIP benefits and a reduction in FAP benefits. Both actions were to be effective July 2018 and due to Petitioner's failure to cooperate with obtaining child support for Child3. (Exhibit A, pp. 1-5)

4. On June 7, 2018, Petitioner reported to the Office of Child Support (OCS) that she met Child3's father at a bar and had a one-night stand. Petitioner also reported that she knew Child3's father's first name and that he was Albanian. Petitioner reported that she was unable to provide any other information about Child3's father. OCS was unable to establish paternity for Child3 from the information reported by Petitioner.
5. On June 14, 2018, Petitioner requested a hearing to dispute the FIP termination and FAP reduction. Petitioner also requested a hearing concerning MA benefits.
6. On July 26, 2018, and during an administrative hearing, Petitioner verbally withdrew her dispute concerning MA eligibility.

CONCLUSIONS OF LAW

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. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing, in part, to dispute MA eligibility. Petitioner testified that she thought when MDHHS closed her FIP eligibility and reduced her FAP eligibility, that they also stopped her ongoing Medicaid eligibility. MDHHS responded that no negative actions were taken on Petitioner's Medicaid. In response, Petitioner verbally withdrew her dispute concerning MA benefits. Based on the verbal withdrawal, Petitioner's hearing request concerning MA eligibility will be dismissed.

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. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

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. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing to dispute a termination of FIP benefits and a reduction of FAP benefits. MDHHS presented a Notice of Case Action which verified that both actions were taken due to Petitioner's alleged failure to cooperate in obtaining child support. MDHHS clarified that Petitioner failed to cooperate in obtaining child support for Child3.

Cooperation is a condition of FAP and FIP eligibility. Cooperation is required in all phases of the process to establish paternity and obtain support. It includes contacting the support specialist when requested and providing all known information about the absent parent. (BEM 255 (April 2018), p. 9)

Failure to cooperate without good cause results in disqualification of the FAP group member who failed to cooperate. *Id.*, p. 14. Bridges will close the case for a minimum of one calendar month when any FIP group member required to cooperate has been determined non-cooperative with child support. *Id.*, p. 13.

Petitioner reported to OCS that she had a one-night stand with a gentleman, which resulted in pregnancy and the birth of Child3. Petitioner reported to OCS that she only knew Child3's father's first name and his nationality. Petitioner provided no corroboration for any of her statements made to OCS.

In *Black v Dept of Social Services*, 195 Mich App 27 (1992), the Court of Appeals addressed the issue of burden of proof in a non-cooperation finding. Specifically, the court in *Black* ruled that to support a finding of non-cooperation, the agency has the burden of proof to establish that the mother (1) failed to provide the requested verification and that (2) the mother knew the requested information. The *Black* court also emphasized the fact that the mother testified under oath that she had no further information and the agency failed to offer any evidence that the mother knew more than she was disclosing. *Black* at 32-34

A lead worker testified that approximately half of the persons responding to inquiries of paternity report a similar story to the one provided by Petitioner. A degree of skepticism is merited for unverified and uncorroborated reporting of paternity. Given the evidence, it cannot be stated with any certainty that Petitioner reported all known information about Child3's father to CPS. It is not Petitioner's burden to prove compliance, but MDHHS' to establish noncompliance.

During the hearing, MDHHS referenced a photo from Petitioner's Facebook page which showed Petitioner's pregnant belly covered by three hands with a caption addressing "our joy" in feeling Child3 kick. MDHHS speculated that one of the hands resembled a man's and could be Child3's father. Petitioner testified in response that the hands belonged to her and her two children. The evidence was insufficient to establish that Petitioner knew more information about Child3's father than what she reported to MDHHS.

Given the evidence, MDHHS did not establish that Petitioner failed to cooperate with obtaining child support. Thus, the corresponding disqualification and negative actions were improper.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that Petitioner withdrew her dispute concerning MA benefits. Petitioner's hearing request is **PARTIALLY DISMISSED**.

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly terminated Petitioner's FAP and FIP eligibility. It is ordered that MDHHS begin to perform the following actions within 10 days of the date of mailing of this decision:

- (1) Reinstate Petitioner's FAP and FIP eligibility, effective July 2018;
- (2) Remove the relevant child support disqualification from Petitioner's disqualification history; and
- (3) Supplement Petitioner for any benefits improperly not issued.

The actions taken by MDHHS are **REVERSED**.

CG/



Christian Gardocki

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

Denise Ezell
MDHHS-Wayne-23-Hearings

Department Representative

MDHHS-OCS-Hearings

Petitioner

██████████
██████████
██████ MI ██████

BSC4
D Smith
EQAD
M Holden
D Sweeney
B Sanborn
C Gardocki
MAHS