



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: August 22, 2018
MAHS Docket No.: 18-006670
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 telephone hearing was held on August 16, 2018, from Detroit, Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Terri Stheiner, specialist, and Anissa Ali, lead child support specialist.

ISSUE

The issue is whether MDHHS properly affected Petitioner's Family Independence Program (FIP) and Food Assistance Program (FAP) based on Petitioner's cooperation with obtaining child support.

FINDINGS OF FACT

The administrative law judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. At all relevant times, Petitioner was an ongoing FAP and FIP recipient.
2. On ██████████, 2018, Petitioner gave birth to a child (hereinafter, "Child").
3. On May 23, 2018, OCS mailed Petitioner a first contact letter requesting Petitioner to contact OCS.
4. On June 1, 2018, Petitioner contacted OCS. Petitioner reported that Child was conceived by one of approximately five men she met through a dating app.

Petitioner reported that she could not provide a name, address, or any other information for any of the potential fathers.

5. On June 2, 2018, OCS mailed Petitioner a Final Customer Contact Letter.
6. On June 11, 2018, OCS imposed a child support disqualification based on Petitioner's alleged failure to contact OCS.
7. On June 19, 2018, MDHHS decreased Petitioner's FAP eligibility, effective August 2018, due to Petitioner's child support noncompliance. (Exhibit A, pp. 7-11)
8. On June 27, 2018, Petitioner requested a hearing to dispute child support noncompliance. (Exhibit A, p. 4)
9. On July 9, 2018, OCS removed Petitioner's child support disqualification. OCS also mailed Petitioner a letter requesting the following concerning Child: name of Child's father, Child's father's home address, physical description of Child's father, and conception information. Petitioner was also advised that she would need to reactivate her social media account so that she could learn information about potential fathers for Child.
10. On July 28, 2018, OCS imposed a child support disqualification against Petitioner due to Petitioner's failure to provide requested information.
11. On an unspecified date, MDHHS terminated Petitioner's FIP eligibility, effective September 2018.

CONCLUSIONS OF LAW

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 on June 27, 2018, to dispute a child support disqualification concerning FAP and FIP eligibility. As of Petitioner's hearing request date, MDHHS the only relevant child support disqualification was dated June 11, 2018. Because of the disqualification, MDHHS reduced Petitioner's FAP eligibility, effective August 2018. The evidence did not address whether any adverse actions were taken to Petitioner's FIP eligibility at the time of Petitioner's hearing request; for purposes of this decision, it will be assumed that MDHHS did take an adverse action.

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. FIP applications are to be denied if a client does not cooperate with obtaining child support within 10 days after receiving a checklist informing the client of the requirement. *Id.*, p. 12.

As of Petitioner's hearing request date, OCS imposed a child support disqualification as a result of Petitioner's alleged failure to contact OCS. OCS acknowledged that Petitioner was technically compliant because Petitioner contacted OCS on June 1, 2018. Thus, the child support disqualification imposed by OCS on June 11, 2018, was improper. OCS later realized that the support disqualification was improper and revoked the disqualification. The evidence did not establish whether MDHHS honored the revocation of the disqualification by revoking the threatened reduction of FAP eligibility for August 2018

As it happened, MDHHS again imposed a child support disqualification on July 28, 2018, due to Petitioner's alleged failure to provide information sufficient to identify Child's father. Much of the hearing was dedicated to determining whether the disqualification dated July 28, 2018, was properly imposed. There is no administrative jurisdiction to address the disqualification from July 28, 2018, because the disputed MDHHS actions occurred after Petitioner requested a hearing.

It should be noted that Petitioner's August 2018 FAP and FIP eligibility could not have been adversely affected by the child support disqualification from July 28, 2018.¹ The disqualification dated July 28, 2018, likely affected Petitioner's FAP and FIP eligibility for September 2018. Given the evidence, MDHHS will be ordered to reinstate Petitioner's FIP eligibility only for August 2018. Petitioner will have to again request a hearing to dispute the second child support disqualification from July 28, 2018, and/or adverse actions taken to her eligibility for September 2018.

¹ BAM 220 requires that MDHHS give "timely notice" for most adverse actions. With proper timely notice, MDHHS may affect the first full benefit month after at least 11 days after the negative action notice date. Thus, a negative action date of July 28, 2018 could not affect Petitioner's benefits until September 2018.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly imposed a child support disqualification against Petitioner on June 11, 2018. It is ordered that MDHHS begin to perform the following actions within 10 days of the date of mailing of this decision:

(1) Recalculate Petitioner's FAP and FIP eligibility for only July 2018, subject to the finding that MDHHS improperly imposed a child support disqualification on June 11, 2018; and

(2) 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

Lindsay Miller
MDHHS-UnionSt-Hearings

Department Representative

Office of Child Support (OCS)-MDHHS

Petitioner

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