



RICK SNYDER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
LANSING

SHELLY EDGERTON  
DIRECTOR

[REDACTED]  
[REDACTED]  
[REDACTED], MI [REDACTED]

Date Mailed: September 21, 2018  
MAHS Docket No.: 18-008131  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE:** Kevin Scully

**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; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, a telephone hearing was held on September 12, 2018, from Lansing, Michigan. Petitioner was represented by herself. The Department was represented by Shana Hook, Hearing Facilitator, and Tiffany Heard, of the Office of Child Support.

**ISSUE**

Did the Department of Health and Human Services (Department) properly sanction Petitioner's Food Assistance Program (FAP) benefits for noncooperation with the Office of 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. Department records indicate that Petitioner was interviewed on April 26, 2018, concerning the circumstances surrounding the father of her child. Exhibit A, p 13.
2. On April 27, 2018, the Department determined that Petitioner was noncooperative with attempts by the Office of Child Support to identify and locate the absent parent of her child. Exhibit A, p 13.
3. On [REDACTED], 2018, the Department received Petitioner's application for Food Assistance Program (FAP) benefits as a household of two. Exhibit A, pp 1-6.
4. On July 27, 2018, the Department sent Petitioner a Verification Checklist (DHS-3503) instructing her to contact the Office of Child Support. Exhibit A, pp 7-8.

5. On August 14, 2018, the Department notified Petitioner that she was approved for Food Assistance Program (FAP) benefits as a group of one, and that she had been disqualified from receiving benefits for noncooperation with the Office of Child Support. Exhibit A, pp 9-12.
6. On August 2, 2018, the Department received Petitioner's request for a hearing.

### **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.

Families are strengthened when children's needs are met. Parents have a responsibility to meet their children's needs by providing support and/or cooperating with the department, including the Office of Child Support (OCS), the Friend of the Court (FOC) and the prosecuting attorney to establish paternity and/or obtain support from an absent parent. The custodial parent or alternative caretaker of children 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. Failure to cooperate without good cause results in disqualification. Disqualification includes member removal, as well as denial or closure of program benefits. Department of Human Services Bridges Eligibility Manual (BEM) 255 (July 1, 2018), pp 1-2.

On April 26, 2018, Petitioner was interviewed by a representative of the Department's Office of Child Support who would determine that she was being noncooperative with efforts to identify and locate the absent parent of her child.

On [REDACTED], 2018, the Department received Petitioner's application for FAP benefits. Petitioner's application was approved on July 27, 2018, but Petitioner has been disqualified from receiving FAP benefits since April 27, 2018. This fits the definition of a denial of FAP benefits and Petitioner is entitled to a hearing protesting this denial by BAM 600.

The evidence supports a finding that Petitioner made herself available for an interview on April 26, 2018, where the Department had an opportunity to request information about the absent parent of Petitioner's child. No evidence was presented on the record

that Petitioner was given another opportunity to provide any information she has about the absent parent since applying for FAP benefits on July 27, 2018.

The Office of Child Support testified that Petitioner was found to be noncooperative based on her failure to provide sufficient information necessary to identify and locate the absent parent of her child.

No evidence was presented on the record that Petitioner has information necessary to identify the absent parent other than the limited information she provided when she subjected herself to an interview on April 26, 2018. The hearing record does not support a finding that Petitioner is unwilling to provide the Department with any information she has about the absent parent.

Refusal to cooperate is when an individual has demonstrated an unwillingness to cooperate as opposed to an inability to cooperate. 7 CFR 273.11(p)(2).

Since there is no evidence that Petitioner is unwilling to provide information about the absent parent or that she had not provided all information known to her, the Department has failed to establish that Petitioner is noncooperative with the Office of Child Support. Petitioner testified under oath that she had provided all information about the absent parent that is known to her, and the Department has nothing to rebut that assertion.

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 determined Petitioner's eligibility for Food Assistance Program (FAP) benefits effective July 23, 2018.

**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:

Delete the noncooperation sanction from Petitioner's benefits case file. Initiate a determination of the Petitioner's eligibility for Food Assistance Program (FAP) effective July 23, 2018, and Issue the Petitioner any retroactive benefits she may be eligible to receive, if any.

KS/hb

  
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**Kevin Scully**  
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**

Carisa Drake  
190 East Michigan  
Battle Creek, MI 49016

**Department Representative**

Office of Child Support (OCS)-MDHHS  
201 N Washington Square  
Lansing, MI 48933

Calhoun County (District 21), DHHS

BSC3 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

**Petitioner**

[REDACTED]  
[REDACTED]  
[REDACTED] MI [REDACTED]