



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

SHELLY EDGERTON
DIRECTOR

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

Date Mailed: October 10, 2018
MAHS Docket No.: 18-009046
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: John Markey

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 October 4, 2018, from Lansing, Michigan. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by Kathleen Scorpio, Hearings Facilitator, Anissa Ali, Lead Child Support Specialist, and Amanda Brannon, Eligibility Specialist. During the hearing, two 15-page packets of documents were offered and admitted as Exhibit A, pp. 1-15, and Exhibit B, pp. 1-15.

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 (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. Petitioner was an ongoing FAP benefits recipient.
2. On August 8, 2016, Petitioner gave birth to a son, who was added to Petitioner's FAP group. The son's paternity has never been established.
3. On June 29, 2018, Petitioner's case was automatically forwarded to OCS.

4. On July 17, 2018, Petitioner spoke with an OCS investigator by telephone. During the conversation, Petitioner told the investigator that she did not know anything about her son's father except that she met him at a bar one night and that his name was [REDACTED]. Petitioner explained that she was not able to provide much more information besides the basic demographic information she provided. Exhibit B, p. 15.
5. On July 22, 2018, the Department's OCS issued to Petitioner a First Customer Contact Letter. The letter explained to Petitioner that the Department needed information regarding the non-custodial and unidentified father of one of her children that was living in her home and a member of her FAP group. The letter informed Petitioner that she was required to cooperate with OCS in establishing the paternity of her child and that failure to do so would result in her case being sanctioned. She was given 10 days to cooperate. Exhibit B, pp. 7-9.
6. On August 2, 2018, the Department's OCS issued to Petitioner a Final Customer Contact Letter. The letter requested the same information as the First Customer Contact Letter and informed Petitioner that if she failed to comply by the deadline, she will be considered noncooperative, which would result in a reduction in benefits or closure of her case. Exhibit B, pp. 10-12.
7. On August 10, 2018, the Department's OCS issued to Petitioner a Noncooperation Notice informing Petitioner that she is considered to be noncooperative because she did not respond to either the First Customer Contact Letter or the Final Customer Contact Letter. Petitioner was informed that her benefits would be reduced or cancelled as a result of this finding and gave Petitioner instructions on how to get the sanction lifted. Exhibit B, pp. 13-14.
8. On August 11, 2018, the Department issued to Petitioner a Notice of Case Action informing Petitioner that her FAP case was being sanctioned for Petitioner's failure to cooperate with OCS. The sanction resulted in Petitioner being removed from the FAP group, substantially reducing the amount of monthly FAP benefits going to Petitioner's FAP group. Exhibit A, pp. 12-15.
9. On September 4, 2018, Petitioner submitted a request for hearing challenging the Department's sanctioning of her FAP case for noncooperation with OCS.

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.

Parents have a responsibility to meet their children's needs by providing support and/or cooperating with the department, including OCS, the Friend of the Court (FOC) and the prosecuting attorney to establish paternity and/or obtain support from an absent parent. BEM 255 (April 1, 2018), p. 1.

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. BEM 255, p. 1.

Cooperation is a condition of eligibility for FAP. The following individuals who receive assistance on behalf of a child are required to cooperate in establishing paternity and obtaining support, unless good cause has been granted or is pending: grantee (head of household) and spouse; specified relative/individual acting as a parent and spouse; and parent of the child for whom paternity and/or support action is required. Cooperation is required in all phases of the process to establish paternity and obtain support. It includes all of the following: 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.

Cooperation is assumed until negative action is applied as a result of non-cooperation being entered. The non-cooperation continues until a comply date is entered by the primary support specialist or cooperation is no longer an eligibility factor. BEM 255 p. 10. An individual who is noncooperative with OCS is a disqualified member of the FAP group. BEM 212 (January 1, 2017), p. 8.

There are two types of good cause: (1) cases in which establishing paternity/securing support would harm the child, and (2) cases in which there is danger of physical or emotional harm to the child or client. BEM 255, pp. 3-4. If a client claims good cause, both the specialist and the client must sign the DHS-2168. The client must complete Section 2, specifying the type of good cause and the individual(s) affected. BEM 255, p. 4.

In this case, Petitioner's case was flagged by the system and the matter was forwarded to OCS for investigation. Prior to the First Customer Contact Letter being sent out on July 22, 2018, Petitioner had a conversation with OCS where she explained all of the information she knew about her son's father to the OCS investigator. Despite providing all the relevant information she had, the Department considered it to be insufficient.

After Petitioner did not respond to the First Customer Contact Letter or the Final Customer Contact Letter by the deadline, the Department issued to Petitioner a Noncooperation Notice on August 10, 2018 and a Notice of Case Action on August 11, 2018 informing Petitioner that her case would be sanctioned, effective September 1, 2018. On August 13, 2018, Petitioner again contacted the Department and provided to the worker all of the information she had regarding the possible father of her son. However, the Department considered the information to be insufficient and refused to remove the noncooperation sanction from her FAP case.

At the hearing, Petitioner testified that, prior to being sanctioned, she had already provided all of the information she could possibly provide regarding the father of her son. She testified that after the sanction was placed on her case, she again provided all of the information she could to the Department. Based on Petitioner's credible and un rebutted testimony, it is clear that the Department erred in placing her case into noncooperation status. She has cooperated in all phases of the investigation and repeatedly provided all of the information she could provide when asked for the information.

DECISION AND ORDER

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 failed to prove that it acted in accordance with Department policy when it placed the OCS noncooperation sanction on Petitioner's case.

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. Add Petitioner to the FAP group as of September 1, 2018, ongoing, and recalculate FAP benefits for the group for September 1, 2018, ongoing;
2. If Petitioner is eligible for additional FAP benefits, issue supplements to Petitioner that she was entitled to receive but did not from September 1, 2018, ongoing;
3. Notify Petitioner of FAP decision in writing.

JM/hb



John Markey
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

Lauren Casper
27690 Van Dyke
Warren, MI 48093

Department Representative

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

Macomb County (District 20), DHHS

BSC4 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

Petitioner

[REDACTED]
[REDACTED] MI [REDACTED]