



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: May 3, 2019
MAHS Docket No.: 19-002323
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 April 17, 2019, from Detroit, Michigan. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by Corlette Brown, Hearings Facilitator, and Cristina Finley, Eligibility Specialist. During the hearing, a 5-page packet of documents was offered and admitted into evidence as Exhibit A, pp. 1-5.

ISSUE

Did the Department properly determine that Petitioner was non-cooperative with the Office of Child Support (OCS), thereby resulting in a sanction being applied to Petitioner's Child Development and Care (CDC) benefits case for the months of December 2018 and January 2019?

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 beneficiary of CDC benefits from the Department for six children, one of whom receives SSI income.
2. At some point, Petitioner was found to be in non-cooperation with the Department's Office of Child Support (OCS). As a result, Petitioner's CDC case was closed for the five children who were not receiving SSI income. The Department did not

issue CDC benefits for those five children for the months of December 2018 and January 2019.

3. The non-cooperation sanction was removed, effective February 2019, and Petitioner began receiving CDC benefits again.
4. On [REDACTED] 2019, Petitioner submitted to the Department a request for hearing to dispute the finding of non-cooperation with the OCS resulting in the sanctioning of Petitioner's CDC benefits case for the months of December 2018 and January 2019.

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).

In this case, Petitioner had an open CDC benefits case for her six children, one of whom was an active SSI recipient. In December 2018 and January 2019, the Department did not pay CDC benefits for the five children who were not SSI recipients, apparently because the Department found that Petitioner was non-cooperative with the Department's OCS. When Petitioner was made aware of the reason why the Department was not issuing the CDC benefits, she contacted the Department and resolved the issue that very same day, resulting in the reinstatement of the CDC benefits for all of the children. Thus, less than one day after being notified that she was considered non-cooperative, Petitioner resolved the alleged problem.

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.

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 2018), p. 1. 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. Cooperation is a condition of CDC eligibility. BEM 255, p. 9.

The Department presented zero evidence to substantiate its finding that Petitioner was properly placed in non-cooperation status by the Department. The only thing presented by the Department was a five-page packet of documents that in no way justified the Department's actions. At the hearing, the Department witnesses were wholly unaware of whether Petitioner was sent any directives regarding the issue or what Petitioner may have done in response. The only evidence presented at the hearing that shed any light on this matter was Petitioner's testimony that upon receiving notice that she was considered to be non-cooperative with the Department's OCS, she resolved the issue that very day, resulting in the removal of the sanction. As stated above, the Department may only put a client into non-cooperation status if the client actually fails or refuses to help the Department when asked. There is no evidence here that Petitioner was ever asked, let alone that she failed or refused to cooperate thereafter. Accordingly, based on the evidence presented, the Department violated Department policy when it sanctioned Petitioner's CDC case for allegedly being non-cooperative with the Department's OCS.

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 sanctioned Petitioner's CDC benefits case for allegedly failing to cooperate with the Department's OCS.

DECISION AND ORDER

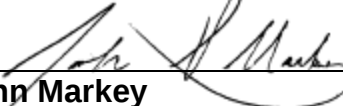
Accordingly, the Department's decision is **REVERSED**.

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 CDC benefits case for all of Petitioner's children, effective December 1, 2018;
2. Provide CDC benefits that Petitioner should have received in December 2018 and January 2019 but did not due to the Department's wrongful finding of non-cooperation; and

3. Notify Petitioner in writing of its actions and decisions.

JM/cg


John Markey
Administrative Law Judge
for Robert Gordon, 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

Via Email:

MDHHS-Wayne-31-Hearings
L. Brewer-Walraven
BSC4- Hearing Decisions
MOAHR

Petitioner – Via First-Class Mail:

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