



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ORLENE HAWKS
DIRECTOR

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

Date Mailed: May 28, 2019
MOAHR Docket No.: 19-003741
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Landis Lain

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 May 22, 2019, from Lansing, Michigan. Petitioner was represented by Petitioner, [REDACTED]. The Department of Health and Human Services (Department or Respondent) was represented by Tiffany Heard, Child Support Specialist; Territa Rivers Family independence Manager; and Tracy Calloway, Assistance Payments Worker.

Respondent's Exhibit A, pages 1-11 were admitted as evidence.

ISSUE

Did the Department properly determine that Petitioner is not entitled to Food Assistance Program (FAP) benefits because she has a child support non-cooperation sanction in place?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On March 5, 2019, the Child Support Office sent Petitioner Notice of Non-Cooperation, for failure to provide information about her child's father.
2. On March 14, 2019, the child support sanction was imposed.

3. On March 14, 2019, the Department sent Petitioner a Notice of Case Action indicating that her Food Assistance Program (FAP) benefits were denied because she has a child support sanction in place. Her children were approved for FAP.
4. Petitioner currently receives benefits for her two children, but Petitioner is not included in the FAP group due to the sanction.
5. On March 22, 2019, Petitioner filed a request for hearing to contest the Department's negative action.
6. On April 10, 2019, a pre-hearing conference was held.
7. On April 22, 2019, the Michigan Office of Administrative Hearings and Rules received a copy of the Hearing Summary and attached documents.

CONCLUSIONS OF LAW

The regulations governing the hearing and appeal process for applicants and recipients of public Assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his or her claim for Assistance has been denied. MAC R 400.903(1). Clients have the right to contest a Department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The Department will provide an administrative hearing to review the decision and determine the appropriateness of that decision. BAM 600.

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.

Department philosophy indicates that families are strengthened when children's needs are met. Parents have the responsibility to meet their children's needs by providing support and/or cooperating with the Department including the Office of Child Support, the Friend of the Court and the Prosecuting Attorney to establish paternity and/or obtain support from an absent parent. Clients 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 their claim of good cause for not cooperating has been granted or is pending.

Pertinent Department policy indicates:

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. BEM 255, page 1

Inform the individual of the right to claim good cause by giving them a DHS-2168, Claim of Good Cause - Child Support, at application, before adding a member and when a client claims good cause. The DHS-2168 explains all of the following:

- The Department's mandate to seek child support.
- Cooperation requirements.
- The positive benefits of establishing paternity and obtaining support.
- Procedures for claiming and documenting good cause.
- Good cause reasons.
- Penalties for noncooperation.
- The right to a hearing.

Grant good cause only when both of the following are true:

- Requiring cooperation/support action is against the child's best interests.
- There is a specific good cause reason.

See the Good Cause Reasons in this item. BEM 255, page 3

There are two types of good cause:

1. Cases in which establishing paternity/securing support would harm the child. Do not require cooperation/support action in any of the following circumstances:
 - The child was conceived due to incest or forcible rape.
 - Legal proceedings for the adoption of the child are pending before a court.
 - The individual is currently receiving counseling from a licensed social agency to decide if the child should be released for adoption, and the counseling has not gone on for more than three months.
2. Cases in which there is danger of physical or emotional harm to the child or client. Physical or emotional harm may result if the client or child has been subject to or is in danger of:
 - Physical acts that resulted in, or threatened to result in, physical injury.
 - Sexual abuse.
 - Sexual activity involving a dependent child.

- Being forced as the caretaker relative of a dependent child to engage in non-consensual sexual acts or activities.
- Threats of, or attempts at, physical or sexual abuse.
- Mental abuse.
- Neglect or deprivation of medical care.

Note: This second type of good cause may include instances where pursuit of child support may result in physical or emotional harm for a refugee family, or the absent parent of a refugee family, when the family separation was the result of traumatic or dangerous circumstances. This may also apply to individuals who are treated to the same extent as a refugee, including asylees and victims of trafficking. BEM 255, pages 3-4

A claim of good cause must be supported by written evidence or documented as credible. Assist clients in obtaining evidence if needed. See Verification Sources in this item for examples of acceptable evidence. BEM 255 page 19


This Administrative Law Judge finds that Petitioner does not have good cause for failure to provide information about her child's father. Petitioner testified on the record that she went to Chicago and went to a bar. She met her child's father and they had sex that night. She has no information about his whereabouts or his identity. Even if what Petitioner states is true, (that she does not know the man's name, location and has only seen him one time because of a one-night stand), lack of knowledge is not an established good cause reason in policy for failure to provide information about her child's father. Therefore, this Administrative Law Judge finds that the Department has established by the necessary competent, material and substantial evidence on the record that it was acting in compliance with Department policy when it canceled Petitioner's Food Assistance Program benefits. Petitioner did not establish good cause for her failure to provide information about the paternity of her child. The Department has established this case by a preponderance of the evidence.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department has appropriately established on the record that it was acting in compliance with Department policy when it cancel Petitioner's Food Assistance Program benefits based upon its determination that Petitioner did not provide good cause for failure to provide information about the paternity of her child and did not provide any information about the paternity of her child. Thus, the Department appropriately imposed a child support sanction and canceled Petitioner's Food Assistance Program benefits.

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

LL/hb



Landis Lain
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 Office of Administrative Hearings and Rules (MOAHR).

A party may request a rehearing or reconsideration of this Order if the request is received by MOAHR 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. MOAHR will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MOAHR. If submitted by fax, the written request must be faxed to (517) 763-0155; Attention: MOAHR 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

Dora Allen
14061 Lappin
Detroit, MI 48205

Department Representative

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

Wayne County (District 76), DHHS

BSC4 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

Petitioner

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