



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 13, 2019
MOAHR Docket No.: 19-003752
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Jeffrey Kemm

HEARING DECISION

Following Petitioner's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9, 7 CFR 273.15, and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on May 8, 2019, from Lansing, Michigan. [REDACTED] [REDACTED] Petitioner, appeared and represented himself. Richkelle Curney, Hearing Facilitator, appeared with Office of Child Support Lead Worker, Patricia Bregg, for the Department of Health and Human Services (Department). Neither party had any additional witnesses.

One exhibit was admitted into evidence during the hearing. A 16-page packet of documents provided by the Department was admitted collectively as the Department's Exhibit A.

ISSUE

Did the Department properly determine Petitioner's Food Assistance Program (FAP) benefit?

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 is a FAP benefit recipient.
2. Petitioner has a household size of three, including himself and his two children.
3. On February 2, 2012, the Office of Child Support found Petitioner to be non-cooperative due to his failure to respond to its letters issued on August 12, 2011, and January 25, 2012.

4. On March 13, 2019, the Department erroneously terminated Petitioner's FAP benefits for failing to provide verification as requested. Petitioner had provided verification as requested.
5. On March 25, 2019, Petitioner filed a hearing request to dispute the Department's decision.

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.

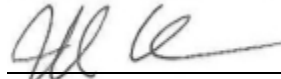
By the Department's own admission at the hearing, the Department did not act in accordance with its policies and the applicable law when it terminated Petitioner's FAP benefits. The Department terminated Petitioner's FAP benefits for failing to provide requested information, but Petitioner had provided the requested information as instructed. Thus, the Department's termination was erroneous. Therefore, the Department's decision must be reversed. The Department must reevaluate Petitioner's eligibility and issue a new notice of its determination to Petitioner.

A custodial parent is required to comply with all requests for action or information needed to establish paternity and/or obtain child support on behalf of children for whom he receives assistance. BEM 255 (April 1, 2019), p. 1. Failure to cooperate without good cause results in disqualification. BEM 255, p. 2. Disqualification includes member removal. BEM 255, p. 2. Good cause is limited to two situations: (1) situations in which establishing paternity would harm the child and (2) situations in which establishing paternity would risk physical or emotional harm to the child or custodial parent. BEM 255, p. 3-4. Once an individual is disqualified, he must remain disqualified until he cooperates. BEM 255, p. 14-15. Here, Petitioner was found to be non-cooperative with the Office of Child Support on February 2, 2012, and Petitioner did not present sufficient evidence to establish either that he was cooperative or that he had good cause. Thus, I must find that the Department properly disqualified Petitioner for being non-cooperative with the Office of Child Support. However, the Office of Child Support found Petitioner cooperative at the hearing on May 7, 2019, and indicated that Petitioner would not be in noncooperation status in the future as a result.

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 did not act in accordance with its policies and the applicable law when it terminated Petitioner's FAP benefits.

IT IS ORDERED the Department's decision is **REVERSED**. The Department shall begin to implement this decision within 10 days.



JK/nr

Jeffrey Kemm
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 OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

Department Representative

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

Wayne 17 County DHHS- via electronic
mail

BSC4- via electronic mail

M. Holden- via electronic mail

D. Sweeney- via electronic mail

DHHS

Tara Roland 82-17
8655 Greenfield
Detroit, MI
48228

Petitioner

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