



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]
Date Mailed: June 28, 2019
MOAHR Docket No.: 19-004384
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 June 5, 2019, from Detroit, Michigan. Petitioner appeared and represented herself. Also appearing on behalf of Petitioner was [REDACTED]. The Department of Health and Human Services (Department) was represented by Aundrea Jones, Hearings Facilitator, and Fallan Myers, Lead Specialist for the Department's Office of Child Support (OCS). During the hearing, two packets of documents were offered and admitted into evidence as Exhibit A, pp. 1-13, and Exhibit B, pp. 1-9.

ISSUE

Did the Department properly deny Petitioner's March 19, 2019 application for Child Development and Care (CDC) benefits?

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 13, 2018, Petitioner gave birth to a child. At the time, Petitioner was an active recipient of benefits from the Department.
2. On March 26, 2018, the Department's OCS issued to Petitioner a First Customer Contact Letter directing Petitioner to identify the father of Petitioner's child. Petitioner was warned that failure to cooperate would render her ineligible for multiple assistance programs offered by the Department, including CDC benefits. Exhibit B, pp. 3-4.

3. On April 14, 2018, the Department's OCS issued to Petitioner a Noncooperation Notice informing Petitioner that she was considered noncooperative with OCS because she failed to provide information identifying the father of her child. Petitioner was provided with a phone number to call if she would like to cooperate. Exhibit B, pp. 6-7.
4. After receiving the letter, Petitioner contacted the Department and provided some but not all of the information she had regarding the father. The Department did not lift the noncooperation sanction.
5. On [REDACTED] 2019, Petitioner submitted to the Department an application for CDC benefits.
6. On April 11, 2019, the Department issued to Petitioner a Notice of Case Action informing Petitioner that her application for CDC benefits was denied. The Notice of Case Action stated that it was denied because Petitioner withdrew her application. However, Petitioner never withdrew her application. Rather, the application was denied because Petitioner was considered noncooperative with the Department's OCS. Exhibit A, pp. 9-12.
7. On [REDACTED] 2019, Petitioner submitted to the Department a request for hearing objecting to the denial of Petitioner's CDC application.

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 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.

In this case, Petitioner filed a hearing request objecting to the Department's denial of Petitioner's [REDACTED] 2019 application for CDC benefits. The April 11, 2019 Notice of Case Action stated that the application was denied because Petitioner allegedly withdrew her application. However, the evidence on the record shows that Petitioner never withdrew her application and that it was in fact denied because Petitioner was subject to an OCS noncooperation disqualification that was imposed on April 14, 2018.

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 (July 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.

Petitioner's child was born on March 13, 2018. On March 26, 2018, the Department's OCS issued to Petitioner a First Customer Contact Letter informing Petitioner that because she was on public assistance and had a child with a parent who was not in the home, Petitioner had to assist in identifying that absent parent. Petitioner was warned that failure to cooperate would cause her benefits cases to close and that "[f]ederal and state laws require all people receiving benefits from the...Child Development and Care to cooperate with the child support program." On April 14, 2018, the Department's OCS imposed a noncooperation sanction on Petitioner's case for failing to cooperate.

On April 23, 2018, Petitioner contacted the Department's OCS and provided general information regarding the father of her child. It was nowhere near sufficient to identify the individual. The Department did not consider Petitioner cooperative and did not remove the sanction.

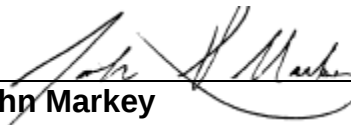
When Petitioner applied for the CDC benefits in [REDACTED] 2019, she had still not provided all the information to the Department regarding the father of her child and had thus not complied. In fact, during the hearing, Petitioner disclosed to the Department numerous relevant identifying facts that she had previously never disclosed. While there is no allegation that Petitioner was dishonest, it is clear that she did not put forth a good faith effort in fulfilling her duty to assist the Department in identifying the absentee father. As a result, the noncooperation sanction was properly not removed, and her application was appropriately denied. Accordingly, the Department's decision is affirmed.

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 acted in accordance with Department policy when it denied Petitioner's application for CDC benefits.

DECISION AND ORDER

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

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 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

Via Email:

MDHHS-Wayne-18-Hearings
MDHHS-Office of Child Support (OCS)
L. Brewer-Walraven
BSC4- Hearing Decisions
MOAHR

Petitioner – Via First-Class Mail:

[REDACTED]
[REDACTED]
[REDACTED]