



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED], MI [REDACTED]

Date Mailed: June 26, 2019
MOAHR Docket No.: 19-005084
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, a telephone hearing was held on June 20, 2019, from Lansing, Michigan. Petitioner represented herself. The Department was represented by Amber Gibson and Tiffany Heard of the Office of Child Support.

ISSUE

Did the Department of Health and Human Services (Department) properly deny Petitioner's application for Medical Assistance (MA) and Food Assistance Program (FAP) 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 June 15, 2018, the Department notified Petitioner that she was considered to be noncooperative with the Office of Child Support. Exhibit A, p 10.
2. On [REDACTED] 2019, the Department received Petitioner's application for Medical Assistance (MA) and Food Assistance Program (FAP) benefits.
3. On May 2, 2019, the Department notified Petitioner that she is not eligible for Medical Assistance (MA) effective May 1, 2019. Exhibit A, p 11.
4. On May 3, 2019, the Department received Petitioner's request for a hearing protesting the denial of Medical Assistance (MA) and Food Assistance Program (FAP) benefits. Exhibit A, p 2.

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 Medical Assistance (MA) program is established by Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. The Department (formerly known as the Department of Human Services) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

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.

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. 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. Failure to cooperate without good cause results in disqualification. Disqualification includes member removal, as well as denial or closure of program benefits. Department of Human Services Bridges Eligibility Manual (BEM) 255 (April 1, 2019), pp 1-2.

At application, clients have 10 days to cooperate with the OCS. The Department will instruct clients to contact the OCS in a verification check list (VCL). The disqualification is imposed if client fails to cooperate on or before the VCL due date when all of the following are true:

- There is a begin date of non-cooperation in the absent parent logical unit of work.
- There is not a subsequent comply date.
- Support/paternity action is still a factor in the child's eligibility.

- Good cause has not been granted nor is a claim pending; see Good Cause For Not Cooperating in this item.

BEM 255, pp 12-13.

At the application interview, the Department will:

- Inform the applicant that the disqualification will be imposed unless a comply date is received from the support specialist.
- Encourage the applicant to cooperate with the support specialist and discuss the consequences of the non-cooperation.
- Promptly refer persons who indicate a willingness to cooperate to the primary worker from the CS icon.

BEM 255, p 13.

Petitioner applied for MA and FAP benefits on May 2, 2019, and the Department denied her application based on a prior sanction for noncooperation with efforts by the Office of Child Support to identify and locate the absent parent of her child.

Petitioner had been notified that she would be sanction for her failure to cooperate on June 15, 2018, and her May 3, 2019, request for a hearing is untimely with respect to that action.

Petitioner applied for benefits on [REDACTED] 2019, and while the filing of this application does not pend the sanction for noncooperation, she his entitled to an opportunity to cooperate with the Department. It is not disputed that Petitioner made herself available for interviews with OCS previously, but it is the Department's position that she has withheld information necessary to identify the absent parent of her child. Since being sanctioned on June 15, 2018, Petitioner may have gained additional information or may be more motivated to reveal information not disclosed during pervious interviews.

However, the evidence does not support a finding that Petitioner was given an opportunity to cooperate with OCS following her [REDACTED] 2019, application for assistance. Filing an application for assistance with the Department entitles Petitioner to an opportunity to reveal all information about the absent parent she is capable of providing. Then the Department will then determine whether there is reason to believe that Petitioner is withholding information that could lead to the identification of the absent parent.

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 failed to give Petitioner an opportunity to cooperate with the Office of Child Support after filing an application for Medical Assistance (MA) and Food Assistance Program (FAP) benefits on [REDACTED] 2019.

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:

Reprocess the May 2, 2019, Assistance Application, and initiate a determination of the Petitioner's eligibility for Medical Assistance (MA) and Food Assistance Program (FAP) benefits in accordance with policy.

KS/hb



Kevin Scully
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

DHHS

Amber Gibson
5303 South Cedar
PO BOX 30088
Lansing, MI 48911

Department Representative

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

Ingham County, DHHS

BSC2 via electronic mail

D. Smith via electronic mail

EQADHShearings via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

Petitioner

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