



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: September 4, 2019
MOAHR Docket No.: 19-008401
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Amanda M. T. Marler

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 September 3, 2019, from Detroit, Michigan. The Petitioner was self-represented. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearings Facilitator, and had Office of Child Support (OCS) Lead Worker [REDACTED] appear as a witness.

ISSUE

Did the Department properly determine that Petitioner was in noncompliance with child support requirements for the Food Assistance Program (FAP)?

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 January 18, 2018, the OCS issued a First Customer Contact Letter to Petitioner at an address on [REDACTED] in [REDACTED], Michigan requesting information about the absent parent of her son within ten days of the letter.
2. On January 26, 2018, the OCS issued a Final Customer Contact Letter to Petitioner at the [REDACTED] address requesting information about her son's absent parent by February 3, 2018.

3. On February 4, 2018, the OCS issued a Noncooperation Notice to Petitioner at the Oak Park address informing her that she was considered to be in noncooperation status with the child support program because she failed to contact the Department within ten days of the first customer contact letter or by February 4, 2018 based upon the second contact letter or provide identifying information about the absent parent.
4. On February 8, 2018, Petitioner contacted OCS and indicated that the absent parent went by "T", but she did not have a date of birth, social security number, or other description for the man; in addition she advised OCS that she met the man at an afterhours party in Detroit.
5. On March 16, 2018, Petitioner contacted OCS and requested a hearing.
6. On April 12, 2018, Petitioner contacted OCS and provided a general description of the absent parent indicating that he was light skinned, six foot tall, normal haircut, normal guy, no tattoos, no facial hair, no glasses, and went by the name "T," but did not know the person's last name.
7. On July 11, 2019, during an interview with the Department, Petitioner provided the Department with the name [REDACTED] as the potential absent parent and his name was listed in Bridges; Petitioner did not contact OCS to provide the name of the absent parent.
8. On July 22, 2019, the Department received Petitioner's request for hearing disputing the determination of noncooperation status.
9. On July 23, 2019, the Department issued a Notice of Case Action to Petitioner informing her that her FAP group of two including her two children was approved for [REDACTED] in FAP benefits but that she was disqualified from the FAP due to noncooperation with child support requirements.

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.

In this case, Petitioner disputed the determination of noncooperation by OCS. Petitioner was placed in noncooperation with OCS in February 2018 because she failed to respond to customer contact letters or provide identifying information about the absent parent.

In FAP cases, the custodial parent or alternative caretaker of a child 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. BEM 255 (April 2019), p. 1. Caretakers include adults acting as a parent to a dependent child by providing physical care and supervision. BEM 210 (April 2019), p. 1; BEM 212 (April 2019), p. 2. Failure to cooperate without good cause results in disqualification including member removal, denial of an application, or closure of program benefits. BEM 255, pp. 2, 13-14. Cooperation includes 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. BEM 255, p. 9. In FAP cases, failure to cooperate without good cause results in disqualification of the individual who failed to cooperate from the FAP group. BEM 255, p. 14. The individual and their needs are removed from the FAP group for a minimum of one month; the remaining eligible group members would continue to receive FAP benefits. *Id.*

Initially, Petitioner did not respond to the OCS letters. Petitioner credibly testified that the letters were sent to an old address and she did not receive them. She only became aware of the letters when she spoke with her case worker from the Department. After becoming aware of the letters, Petitioner began contacting OCS on a regular basis to provide information about the absent parent and to request a hearing. At one point, Petitioner attempted to give the phone number of the suspected father to OCS; however, she was advised that because she knew that the phone number was not a good phone number any longer, OCS did not want it. At the hearing, Petitioner provided the phone number to OCS. In addition to Petitioner's communications with OCS, Petitioner continued her search for the name or other identifying information of her son's father. In approximately July 2019, prior to Petitioner's hearing request on July 22, 2019, Petitioner was finally able to locate the father's name after communicating with someone who knew someone who knew the man in question. Initially, he was identified as "T" again but upon pressing, he was identified as [REDACTED]. Petitioner then began investigating [REDACTED] on [REDACTED] and found a man that she believed to be the father. She did not message him or contact him via [REDACTED] initially, but when she attempted to find him on a later date, the profile was inaccessible or no longer available. Despite having found a first and last name for the man she believed to be the father, Petitioner failed to inform the OCS. As a result, the OCS was not properly informed of the name and was unable to complete a search for the absent parent.

Since Petitioner had located the name of the man whom she believes to be the absent parent, but failed to provide the information immediately upon discovery, Petitioner effectively withheld information from OCS which could have been used to identify the absent parent. Petitioner's actions are a form of noncooperation. Therefore, the Department's and the OCS's determination of noncooperation are in accordance with policy.

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 determined that Petitioner was in noncompliance with child support requirements for FAP purposes.

DECISION AND ORDER

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

AM/tm



Amanda M. T. Marler

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

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Department Representative

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Petitioner

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

CC:

[REDACTED]
[REDACTED]