



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: December 27, 2019
MOAHR Docket No.: 19-012506
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 December 19, 2019 from Detroit, Michigan. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by Kya Lockett, Eligibility Specialist. During the hearing, a 24-page packet of documents was offered and admitted into evidence as Exhibit A, pp. 1-24.

Petitioner's hearing request objected to the Department's actions with respect to both the Food Assistance Program (FAP) and the State Emergency Relief (SER) program. At the beginning of the hearing, Petitioner indicated that she wished to withdraw her hearing request with respect to FAP. The Department did not object. Thus, the hearing request is dismissed as it applies to any action taken with respect to FAP.

ISSUE

Did the Department properly deny Petitioner's [REDACTED] 2019 SER application based upon the Department's determination that Petitioner was non-cooperative with the Department's Office of Child Support (OCS)?

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 [REDACTED], 2018, Petitioner gave birth to her son.

2. On [REDACTED], 2018, the Department found that Petitioner was non-cooperative with the OCS in determining the paternity of her child. Exhibit A, p. 20.
3. Throughout 2018 and 2019, Petitioner repeatedly applied for benefits from the Department only to be denied and told she was non-cooperative with OCS. Exhibit A, pp. 6-9.
4. On [REDACTED] 2019, an agent from the OCS emailed a Department worker regarding Petitioner's alleged non-cooperation. The email stated that the non-cooperation sanction cannot be removed. Exhibit A, p. 9.
5. On [REDACTED], 2019, Petitioner submitted to the Department an application for SER benefits.
6. On [REDACTED] 2019, the Department issued to Petitioner a State Emergency Relief Decision Notice informing Petitioner that her SER application was denied because she was allegedly non-cooperative with OCS. Exhibit A, pp. 23-24.
7. On [REDACTED] 2019, Petitioner submitted to the Department a request for hearing objecting to the Department's determination.

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 State Emergency Relief (SER) program is established by the Social Welfare Act, MCL 400.1-.119b. The SER program is administered by the Department (formerly known as the Department of Human Services) pursuant to MCL 400.10 and Mich Admin Code, R 400.7001-.7049.

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 (April 2019), 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, pp. 9-10. 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 SER eligibility. ERM 203 (October 2018), p. 2.

The Department denied Petitioner's SER application because it considered her to be non-cooperative with the Department's OCS in its effort to establish the paternity of Petitioner's son. It is true that the child's father has not been established. However, that is not the focus of the inquiry for non-cooperation. The focus is on whether the client makes a good faith effort to assist the Department in its quest to establish paternity by providing complete, truthful, and timely information to the Department. In this case, Petitioner did so. That the information was not sufficient to establish paternity is of no consequence. Petitioner provided all the information she had in good faith and in a timely manner.

The email from the OCS worker displays a fundamental misunderstanding of what it means to be non-cooperative. In relevant part, the email states:

[Petitioner] says she doesn't know information about the father, enough to identify him, and you are telling her to call child support. If she doesn't have enough information we cannot proceed at child support. She should be held accountable to have information about the father if this is not her first child. But that is for DHS to determine. I cannot do anything with this.

As stated above, the Department may only put a client into non-cooperation status if the client actually fails or refuses to help the Department when asked. There is no evidence here that Petitioner failed or refused to cooperate at any point in time. In fact, based on the email, it appears as though the Department implicitly concedes that Petitioner provided all of the information she had. Accordingly, based on the evidence presented, the Department violated Department policy when imposed and maintained the OCS non-cooperation sanction.

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 denied Petitioner's SER application for allegedly being non-cooperative with the Department's OCS.

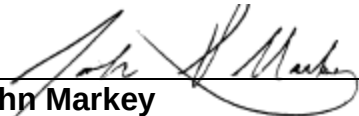
DECISION AND ORDER

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:

1. Remove the non-cooperation sanction from Petitioner's case as it relates to Petitioner's child born on [REDACTED], 2018;
2. Reprocess Petitioner's [REDACTED], 2019 SER application;
3. If any eligibility-related factors remain unclear, inconsistent, contradictory, or incomplete, follow Department policy regarding verifications;
4. Determine Petitioner's eligibility for the requested SER benefits; and
5. Notify Petitioner in writing of its actions and decisions.

JM/tm



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

DHHS

Dora Allen
14061 Lappin
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48205

Petitioner

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

cc: FAP: M. Holden; D. Sweeney
SER-T. Bair; Erich Holzhausen
AP Specialist-Wayne County