



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: January 15, 2019
MAHS Docket No.: 18-010585
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 January 9, 2019, from Lansing, Michigan. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by Laura Joiner, Assistance Payments Supervisor, Linda Kravets, Eligibility Specialist, and Theresa Sharpe, Lead Worker at the Department's Office of Child Support (OCS). During the hearing, two packets of documents were offered into evidence and admitted as Exhibit A, pp. 1-19, and Exhibit B, pp. 1-8.

ISSUE

Did the Department of Health and Human Services (Department) properly maintain the sanction on Petitioner's Food Assistance Program (FAP) benefits case for noncooperation with the 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. Petitioner was an ongoing FAP benefits recipient for a group that included her and three of her children from a previous marriage.
2. On June 16, 2017, Petitioner gave birth to a fourth child, who was added to Petitioner's FAP benefits group. The father of this child was someone other than her ex-husband. Exhibit B, pp. 1-3.

3. On September 21, 2017, the Department's OCS issued to Petitioner a First Customer Contact Letter. The letter explained to Petitioner that the Department needed information regarding the non-custodial and unidentified father of her youngest child. The letter informed Petitioner that she was required to cooperate with OCS in establishing the paternity of her child and that failure to do so would result in her case being sanctioned. She was given 10 days to cooperate. Exhibit B, pp. 5-6.
4. On October 1, 2017, the Department's OCS issued to Petitioner a Final Customer Contact Letter. The letter requested the same information as the First Customer Contact Letter and informed Petitioner that if she failed to comply by the October 9, 2017 deadline, she will be considered noncooperative, which would result in a reduction in benefits or closure of her case. Exhibit B, pp. 7-8.
5. On October 9, 2017, Petitioner submitted to the Department a completed Child Support Response Form, DHS 842. On the completed form, Petitioner knowingly provided incomplete, misleading, and false information regarding the unidentified father of her youngest child. Exhibit B, pp. 1-3.
6. On October 10, 2017, the Department's OCS issued to Petitioner a Noncooperation Notice informing Petitioner that she was deemed to be noncooperative with the child support program because she did not provide OCS with the requested identifying information. Exhibit B, p. 4.
7. Sometime in the months that followed the OCS noncooperation determination, Petitioner's FAP case was sanctioned by designating Petitioner a disqualified member of her FAP benefits group. Thus, the Department issued to Petitioner's group FAP benefits for a group of four on account of Petitioner's four children.
8. On September 14, 2018, the Department issued to Petitioner a Verification Checklist requesting information related to Petitioner's assets. Exhibit A, pp. 2-3.
9. On September 25, 2018, Petitioner submitted to the Department the requested verifications of assets. Exhibit A, pp. 11-12.
10. On September 26, 2018, the Department issued to Petitioner a Notice of Case Action informing Petitioner that her FAP case was closing, effective October 1, 2018, for failure to provide requested verifications. Exhibit A, pp. 4-7.
11. On [REDACTED], 2018, Petitioner submitted a request for hearing challenging the Department's sanctioning of her FAP case for noncooperation with OCS.
12. On October 15, 2018, the Department processed the verifications submitted to the Department by Petitioner on September 25, 2018, resulting in Petitioner's FAP case being reinstated.

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's FAP case was sanctioned by the Department's OCS after the Department determined that Petitioner was noncooperative with their effort to identify the father of Petitioner's youngest child. Petitioner's position is that her refusal to identify the father was reasonable under the circumstances and that the sanction should be lifted.¹

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 2018), p. 1.

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. BEM 255, p. 1.

Cooperation is a condition of eligibility for FAP. The following individuals who receive assistance on behalf of a child are required to cooperate in establishing paternity and obtaining support, unless good cause has been granted or is pending: grantee (head of household) and spouse; specified relative/individual acting as a parent and spouse; and parent of the child for whom paternity and/or support action is required. 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

¹ At the time of the hearing request, Petitioner's FAP case had been closed for allegedly failing to provide required verifications of assets. About one week after submitting the [REDACTED], 2018 hearing request, the matter was resolved, and the case was reopened. Petitioner acknowledged that the issue was disposed of and withdrew her hearing request to the extent that it challenged the now moot issue of the October 1, 2018 closure. Thus, the only issue is whether the Department properly maintained the OCS noncooperation sanction on Petitioner's FAP case.

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. An individual who is noncooperative with OCS is a disqualified member of the FAP group. BEM 212 (January 1, 2017), p. 8.

There are two types of good cause: (1) cases in which establishing paternity/securing support would harm the child, and (2) cases in which there is danger of physical or emotional harm to the child or client. BEM 255, pp. 3-4. If a client claims good cause, both the specialist and the client must sign the DHS-2168. The client must complete Section 2, specifying the type of good cause and the individual(s) affected. BEM 255, p. 4.

In this case, Petitioner was an active recipient of FAP benefits when she gave birth to a child on [REDACTED], 2017. Because the father was not identified, the Department forwarded the matter to OCS to investigate and determine the paternity of the child. OCS sent Petitioner a First Customer Contact Letter on September 21, 2017. The letter informed Petitioner what information it needed and why and gave her a deadline to provide it. Petitioner did not respond to the letter. On October 1, 2017, the Department sent to Petitioner a Final Customer Contact Letter. Again, Petitioner was told what information was needed and why and given a deadline to comply. Petitioner was warned that if she did not provide all the information she had, the Department would sanction her case.

In response to the Final Customer Contact Letter, Petitioner timely submitted to the Department a partially completed a form titled INFORMATION ABOUT THE CUSTODIAL PARENT/CARETAKER OF THE CHILD, also known as DHS Form 842. On the form, Petitioner informed the Department that the child was conceived on [REDACTED], 2016 in an unknown city in Michigan. In two different places where the Department asked for the father's name, Petitioner dishonestly wrote "UNKNOWN UNKNOWN." The only identifying information provided about the father was that he was a six-foot-tall, 200-pound [REDACTED] year old male with brown hair and brown eyes.

The day after Petitioner submitted the DHS Form 842, the Department's OCS issued a Noncooperation Notice informing Petitioner that she was deemed to be noncooperative with the Department's OCS because she failed to provide identifying information regarding the unidentified father of her youngest child. Petitioner did not provide any additional identifying information to the Department before submitting her request for hearing on [REDACTED], 2018, despite being given multiple opportunities to do so.

At the hearing, Petitioner acknowledged that she has known all along who the father of her youngest child is but refuses to provide it to the Department because she believes that doing so would be financially harmful to her and the child's father, collectively. Cooperation includes providing all known information needed to identify the father.

Petitioner knew from day one the identity of the father. When asked for the information and told the consequences of not providing it, Petitioner chose not to comply. Instead, Petitioner submitted to the Department the false, misleading, and incomplete DHS Form 842. Based on that completely unhelpful submission, the Department placed Petitioner in noncooperation status. Since then, Petitioner has done nothing to support a finding that she has since complied. Instead, Petitioner has consistently made clear to the Department that she fully intends to continue to refuse to cooperate with the Department's inquiry. Accordingly, the Department properly refused to remove the noncooperation status.


Thus, the Department followed Department policy by refusing to lift the noncooperation sanction from her case. If Petitioner would like to have the sanction removed, she must cooperate with the Department, and that includes providing forthright, honest, and complete information regarding the unidentified father of her youngest child.

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 refused to remove the OCS noncooperation sanction from Petitioner's case.

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 Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Order if the request is received by MAHS 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. MAHS will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MAHS. If submitted by fax, the written request must be faxed to (517) 763-0155; Attention: MAHS Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

Via Email:

MDHHS-Van Buren-Hearings
Office of Child Support (OCS)-MDHHS
M. Holden
D. Sweeney
BSC3- Hearing Decisions
MAHS

Petitioner – Via First-Class Mail:

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