



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

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Date Mailed: January 8, 2019
MAHS Docket No.: 18-011579
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 13, 2018, from Detroit, Michigan. The Petitioner appeared and was represented by herself. The Department of Health and Human Services (Department) was represented by Julie Mclaughlin, Hearing Facilitator and Family Independence Manager, and Wanda Metzler Eligibility Specialist. Jeff Koteles, Lead Worker, Office of Child Support, also appeared as a witness for the Department.

ISSUE

Did the Department properly close the Petitioner's Child Development and Care (CDC) benefit case due to 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. The Petitioner was an ongoing recipient of CDC benefits (child day care).
2. The Department sent a Notice of Case Action dated October 23, 2018, closing the Petitioner's CDC and removing her from her FAP group due to noncooperation with OCS as of November 1, 2018, and December 1, 2018, respectively. (Exhibit A.)
3. On October 3, 2018, and October 13, 2018, the OCS sent Petitioner a First Contact Letter and a Final Contact Letter, respectively requesting the Petitioner

provide OCS information regarding the identity of Child A, (DOB July 7, 2016), her daughter's father.

4. The Petitioner had previously given OCS the names of two individuals who she believed might be the father of her child. Both individuals were genetically tested, on April 7, 2017, and October 3, 2018, and were determined not to be the father of Child A.
5. The OCS also sent a Noncooperation Notice to Petitioner dated October 23, 2018, which found the Petitioner in Noncooperation with OCS as of October 22, 2018. (Exhibit D.)
6. The Petitioner requested a timely hearing on October 30, 2018.

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.

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, the Department closed Petitioner's CDC case and removed Petitioner from her food assistance group due to a finding of noncooperation with OCS with regard to her cooperation with OCS in determining the father of her child. The Department on October 23, 2018, issued a Notice of Case Action closing the Petitioner's CDC effective November 11, 2018, ongoing, and removed Petitioner from her food assistance benefits. (Exhibit A.) Prior to the finding by OCS of noncooperation, the Petitioner provided OCS with the names of two individuals that she believed might be the father of her daughter, Child A. Both of the individuals participated in genetic testing and were determined after testing not to be the father of Child A. Thereafter, OCS sent a final

letter, a final customer contact, requesting additional information from Petitioner. The Petitioner responded to OCS advising them that there was no other individual that she knew who the father of Child A could be; contact with OCS was made by Petitioner on October 11, 2018.

The Petitioner credibly testified at the hearing that she conceived Child A sometime in October 2015, at which point she approached the two individuals she ultimately further identified to OCS for genetic testing. Both of the individuals denied paternity at that time and were rude and upsetting to Petitioner. Petitioner further testified that at the time she became pregnant she was a mature, single mother of a teenage son and did not party or involve herself in situations where she would be drinking or otherwise lose her memory with respect to her behavior. The Petitioner testified that she was unaware of any other individual might be the potential father and did not have anyone's name she could refer to OCS for genetic testing.

Department policy provides:

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.

Absent parents are required to support their children. Support includes **all** of the following:

- Child support.
- Medical support.
- Payment for medical care from any third party. BEM (July 2018), p. 1

Cooperation with the OCS is a condition of eligibility. Cooperation is required in all phases of the process establish paternity and obtain support, and 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.
- 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.

For CDC benefits department policy requires:

Failure to cooperate without good cause, with Office of Child Support requirements for a child requesting or receiving benefits will result in group ineligibility for CDC. Bridges will close or deny the CDC EDG when a child support non-cooperation record exists and there is no corresponding comply date. BEM 255, p. 13.

For FAP benefits Department policy provides:

Failure to cooperate without good cause results in disqualification of the individual who failed to cooperate. The individual and his/her needs are removed from the FAP EDG for a minimum of one month. The remaining eligible group members will receive benefits. BEM 255, p. 14.

In this case, it is determined that Petitioner did everything she could do to satisfy cooperation with OCS and had no further information to provide. Her testimony was credible, and she had provided two individuals' names to OCS for paternity testing; and therefore, it is determined that she had cooperated fully with OCS as her testimony that she had no further names or other information to provide was credible. There was no evidence to establish that Petitioner intentionally withheld information from OCS, and the evidence presented support that she provided all known information available to her to OCS. Therefore, it is determined that Petitioner did cooperate fully with OCS, and the noncooperation imposed by the Department as of October 22, 2018, was incorrect. (Exhibit D.)

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 closed the Petitioner's CDC case and reduced the Food Assistance due to removing Petitioner from the FAP group.

DECISION AND ORDER

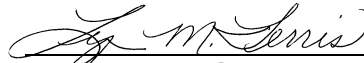
Accordingly, the Department's decision is **REVERSED**.

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. The Department shall remove from the Petitioner's case the noncooperation with Child Support imposed as of October 22, 2018.
2. The Department shall reinstate the Petitioner's CDC case and shall return the Petitioner to her FAP group as a FAP group member as of October 22, 2018.

3. The Department shall supplement the Petitioner's FAP benefits and CDC benefits if Petitioner is otherwise eligible in accordance with Department policy.

LMF/



Lynn M. Ferris

Administrative Law Judge

for Nick Lyon, 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

DHHS

Lynne Greening
MDHHS-Muskegon-Hearings

Department Representative

MDHHS-OCS-Admin-Hearings

Petitioner

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