



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

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[REDACTED] MI [REDACTED]

Date Mailed: March 5, 2020
MOAHR Docket No.: 20-000265
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 March 2, 2020 from [REDACTED] Michigan. The Petitioner was self-represented. The Department of Health and Human Services (Department) was represented by Olivette Gordon, Family Independence Manager, and Mindy Stevens, Lead Child Support Specialist.

ISSUE

Did the Department properly close Petitioner's Child Development and Care (CDC) benefits based upon noncooperation with child support requirements?

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 14, 2018, the Office of Child Support (OCS) issued a First Customer Contact Letter to Petitioner requesting information about the paternity of her child.
2. On January 24, 2018, OCS issued a Final Customer Contact letter to Petitioner requesting information about the paternity of her child.
3. On February 2, 2018, OCS issued a Noncooperation Notice to Petitioner informing her that because she had not contacted OCS and provided information about the paternity of her child, she was determined to be in noncooperation status.
4. On November 6, 2019, the Department issued a Notice of Case Action to Petitioner's address of record on [REDACTED] informing her that effective

November 24, 2019, her CDC case was closing for failure to cooperate with child support requirements.

5. On November 13, 2019, Petitioner contacted OCS for the first and only time, provided all necessary information to OCS regarding the paternity of her child.
6. On the same day, OCS removed the noncooperation status from Petitioner's case file.
7. Petitioner did not receive the Notice of Case Action informing her of the closure of her CDC benefits.
8. On January 9, 2020, the Department received Petitioner's request for hearing disputing the closure of her CDC benefits.

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 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, Petitioner disputes the Department's decision to close her CDC case based upon noncooperation with child support requirements. In CDC 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. Failure to cooperate without good cause results in group ineligibility for CDC benefits if the noncooperation involves a child for whom benefits were requested or received. BEM 255, pp. 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. Good cause includes situations where establishing paternity or securing support would harm the child or where there is a danger of physical or emotional harm to the client or child. BEM 255, pp. 3-4. The support disqualification is not imposed if OCS records the compliance date on or before the timely hearing request date. BEM 255 (April 2019), p. 12. A timely hearing request is a request received by the Department

within ten days of the date of the Notice of Case Action issued by the Department. BAM 600 (July 2019), p. 25.

On November 6, 2019, the Department issued a Notice of Case Action informing Petitioner that her CDC case was closing effective November 24, 2019. Therefore, the timely hearing request date was November 16, 2019. Petitioner contacted OCS on November 13, 2019, provided all necessary information to OCS regarding the paternity of her child, and was placed into cooperation status with OCS. Since Petitioner took this action before the timely hearing request date had passed, the Department should not have closed Petitioner's CDC benefits due to noncompliance with child support requirements effective November 24, 2019.

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 Petitioner's CDC benefits effective November 24, 2019, for noncooperation with child support requirements.

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. Reinstate Petitioner's CDC benefits effective November 24, 2019;
2. Issue supplements to Petitioner or on her behalf for benefits not previously received; and,
3. Notify Petitioner in writing.

AMTM/jaf



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

Richard Latimore
MDHHS-[REDACTED]-Hearings
BSC4
L Brewer-Walraven

Petitioner

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