



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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██████████, MI ██████████

Date Mailed: February 20, 2020
MOAHR Docket No.: 20-000359
Agency No.: ██████████
Petitioner: ██████ ██████

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, a telephone hearing was held on February 13, 2020, from Lansing, Michigan. Petitioner was represented by herself. The Department of Health and Human Services was represented by Alice Gilmer, Denzel Newson, and Renee Boucher, representing the Office of Child Support.

ISSUE

Did the Department of Health and Human Services (Department) properly deny Food Assistance Program (FAP) benefits?

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 been sanctioned for non-cooperation with the Office of Child Support since August 14, 2017. Exhibit A, p 5.
2. Petitioner applied for Food Assistance Program (FAP) benefits.
3. On January 13, 2020, Petitioner was interviewed by a representative of the Office of Child Support. Exhibit A, p 12.
4. The Department's representative testified that Petitioner's application for Food Assistance Program (FAP) benefits was denied.
5. On January 13, 2020, the Department received Petitioner's request for a hearing. Exhibit A, pp 3-4.

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.

Families are strengthened when children's needs are met. Parents have a responsibility to meet their children's needs by providing support and/or cooperating with the department, including the Office of Child Support (OCS), the Friend of the Court (FOC) and the prosecuting attorney to establish paternity and/or obtain support from an absent parent. 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. Failure to cooperate without good cause results in disqualification. Disqualification includes member removal, as well as denial or closure of program benefits. Department of Human Services Bridges Eligibility Manual (BEM) 255 (January 1, 2020), pp 1-2.

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.
- 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 10.

Refusal to cooperate is when an individual has demonstrated an unwillingness to cooperate as opposed to an inability to cooperate. 7 CFR 273.11(p)(2)

On August 14, 2017, the Department found Petitioner to be non-cooperative with efforts by the Office of Child Support to identify and locate the absent parent of Petitioner's child.

Petitioner apparently reapplied for FAP benefits in January of 2020, and the Department referred her to the Office of Child Support. On January 13, 2020, Petitioner subjected herself to an interview with the Office of Child Support. Following the interview, the Department determined that the sanction would continue, and no further action on Petitioner's case was taken.

The evidence supports a finding that Petitioner contacted the support specialist when requested. Further, this Administrative Law Judge finds that Petitioner credibly asserted under oath and under penalty of perjury that she has no further information regarding the absent parent other than the information she had already provided the Department. The Department failed to offer any evidence that Petitioner is withholding information that could lead to the identification of the absent parent. Therefore, the Department has failed to establish a refusal to cooperate with the Office of Child Support.

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 Food Assistance Program (FAP) benefits.

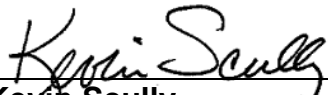
DECISION AND ORDER

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. Delete the noncooperation sanction from Petitioner's benefits case file.
2. Initiate a determination of Petitioner's eligibility for the Food Assistance Program (FAP) as of January 1, 2020.
3. Provide Petitioner with written notice describing the Department's revised eligibility determination.
4. Issue Petitioner any retroactive benefits she may be eligible to receive, if any.

KS/hb



Kevin Scully
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

Wayne County (District 15) via electronic mail

BSC4 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

Petitioner

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