



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]

Date Mailed: October 19, 2020
MOAHR Docket No.: 20-005766
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 October 15, 2020. The Petitioner was self-represented. The Department of Health and Human Services (Department) was represented by Dana Draper Swan, Assistance Payments Worker; Alice Gilmer, Family Independence Manager; and Anissa Ali, Lead Child Support Specialist for the Office of Child Support (OCS).

ISSUE

Did the Department properly place Petitioner in 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 April 9, 2019 and April 19, 2019, the OCS sent letters to Petitioner regarding the absent parent of one of her children.
2. On April 28, 2019, the Department and OCS placed Petitioner in noncooperation status for failure to contact the OCS with information about the absent parent.
3. On April 29, 2019, Petitioner contacted OCS and indicated that she did not know the child's father, that she had had a one-night-stand, she believed his name was [REDACTED], she had met him at her cousin's party, and had provided a physical description.

4. On April 30, 2019, Petitioner contacted OCS again and provided the same information.
5. On July 28, 2019, Petitioner contacted OCS again but provided the name of [REDACTED] instead of [REDACTED].
6. Petitioner's daughter has a different surname from her siblings and Petitioner.
7. Petitioner's daughter has an Arabic name and her siblings have English names.
8. On [REDACTED], 2020, the Department received Petitioner's Application for FAP benefits.
9. On August 26, 2020, the Department issued a Verification Checklist (VCL) to Petitioner advising her to contact OCS by September 8, 2020 to comply with child support requirements.
10. On September 3, 2020, Petitioner contacted OCS again and indicated she only knew the first name of her child's father.
11. On September 8, 2020, the Department issued a Notice of Case Action to Petitioner informing her that her Application for FAP benefits had been denied effective [REDACTED], 2020 for her entire group because she "failed to verify or allow the department to verify information necessary to determine eligibility for this program."
12. Petitioner requested a hearing to dispute the denial of FAP benefits for noncooperation with child support requirements.

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 disputes the denial of FAP benefits based upon noncooperation with OCS requirements. In FAP 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 (January 2020), p. 1. 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. In FAP cases, failure to cooperate without good cause results in disqualification of the individual who failed to cooperate from the FAP group. BEM 255, p. 14. The individual and their needs are removed from the FAP group for a minimum of one month; the remaining eligible group members would continue to receive FAP benefits. *Id.*

Petitioner contacted OCS three times in 2019 and provided two different generic last names, [REDACTED] and [REDACTED], for the potential father of her child. She also contacted OCS in 2020 and provided essentially the same information except that she indicated she did not know the father's last name. However, she met the father of her child at her cousin's party and that man was brought to the party by his cousin who was a friend of Petitioner's cousin. There are not that many degrees of separation involved in this relationship to believe that Petitioner is unable to determine his identity. Furthermore, Petitioner named her child an Arabic name whereas her other children have English names. In addition, the child in question has a different surname than anyone else in her family. Petitioner explained that she named the child as she did because she liked its meaning. However, based upon the names of her other children, her seeming inability to relocate the man despite few degrees of separation, and the uniqueness of the name of the child, Petitioner appears to be withholding information regarding the identity of her child's father. Therefore, Petitioner was properly placed in noncooperation status with OCS and disqualified from receipt of FAP benefits. However, the Department improperly disqualified the remaining members of Petitioner's group from receipt of benefits for failure to identify the absent parent. As seen above, only the individual who failed to comply with child support requirements should be excluded from the group.

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 disqualified all group members from receipt of FAP benefits.

DECISION AND ORDER

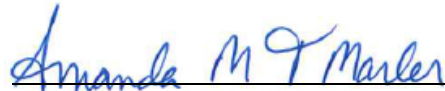
Accordingly, the Department's decision is **REVERSED**.

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. Redetermine Petitioner's group's FAP eligibility;

2. If otherwise eligible, issue supplements to Petitioner for benefits not previously received; and,
3. Notify Petitioner in writing of its decision.

AMTM/cc



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

Via Email:

MDHHS-Wayne-15-Graydale-Hearings
DHS-OCS-Admin-Hearings
BSC4-HearingDecisions
M. Holden
D. Sweeney
MOAHR

Petitioner- Via USPS:

