



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED], MI [REDACTED]

Date Mailed: November 16, 2020
MOAHR Docket No.: 20-006565
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Landis Lain

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 November 12, 2020, from Lansing, Michigan. The Petitioner was represented by Petitioner [REDACTED]. The Department of Health and Human Services (Department or Respondent) was represented by Amber Gibson, Hearings Facilitator, and Renee Boucher, Child Support Specialist.

Department's Exhibit A pages 1-24 were admitted as evidence.

ISSUE

Did the Department properly impose a child support sanction?

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 a Food Assistance Program (FAP) benefit recipient.
2. On August 25, 2020, BRIDGES assistance created a Child support case.
3. On August 30, 2020, there was no response from Petitioner.
4. On [REDACTED], 2020, Petitioner filed an Application for Child Development and Care (CDC) benefits.

5. On September 9, 2020, a second child support non-cooperation letter was sent to Petitioner requesting information on the paternity of her recently born child.
6. On September 19, 2020, the case was placed in non-compliance and a notice sent to Petitioner that her name would be removed from the Food Assistance Program case.
7. On September 24, 2020, Petitioner contacted the Department and alleged that she had a one-night stand with someone she met at a party in [REDACTED] but has no information about the man.
8. Petitioner has an older child whose last name is [REDACTED] (the same as the new child).
9. The older child's father is [REDACTED] according to the older child's birth certificate.
10. On September 30, 2020, Petitioner filed a Request for Hearing to contest the child support sanction.
11. On October 20, 2020, the Michigan Office of Administrative Hearings and Rules received a Hearing Summary and attached documents from the Department.

CONCLUSIONS OF LAW

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his or her claim for assistance has been denied. MAC R 400.903(1). Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The department will provide an administrative hearing to review the decision and determine the appropriateness of that decision. BAM 600.

The Food Assistance Program (FAP) (formerly known as the Food Stamp (FS) program) is established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations (CFR). The Department of Human Services (DHS or department) administers the FAP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3001-3015. Department policies are found in the Program Administrative Manual (BAM), the Program Eligibility Manual (BEM) and the Program Reference Manual (PRM).

The Child Development and Care program is established by Titles IVA, IVE and XX of the Social Security Act, the Child Care and Development Block Grant of 1990, and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The program is implemented by Title 45 of the Code of Federal Regulations, Parts 98 and 99. The Department of Human Services (DHS or department) provides services to adults

and children pursuant to MCL 400.14(1) and MAC R 400.5001-5015. Department policies are contained in the Program Administrative Manual (BAM), the Program Eligibility Manual (BEM) and the Program Reference Manual (PRM).

Department philosophy indicates that families are strengthened when children's needs are met. Parents have the responsibility to meet their children's needs by providing support and/or cooperating with the department including the Office of Child Support, the Friend of the Court and the Prosecuting Attorney to establish paternity and/or obtain support from an absent parent. Clients 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 their claim of good cause for not cooperating has been granted or is pending. BEM, Item 255, 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. 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 255, page 1

Failure to cooperate without good cause results in disqualification. Disqualification includes member removal, denial of program benefits and/or case closure depending upon the program. Exceptions to the cooperation requirement are allowed for all child support actions except failure to return court ordered support payments received after the payment effective date. Grant good cause only if requiring cooperation/support action is against the child's best interest and there has been specific good cause reason. BEM, Item 255, pp. 1-2).

There are only two types of good cause allowed by Departmental policy:

- Cases in which establishing paternity/securing support would harm the child. Do not require cooperation/support action at any of the following circumstances:
 - o Where the child was conceived due to incest or forcible rape,
 - o Where legal proceedings for the adoption of the child are pending before a court, and
 - o The client is currently receiving counseling from a public or a licensed private social agency to decide if the child should be released for adoption and the counseling has not gone on for more than 3 months.

- Cases in which there is danger of physical or emotional harm to the child or client. Physical or emotional harm may result if the client or child has been subject to or in danger of:
 - o Physical acts that result in, or threatened to result in physical injury
 - o Sexual abuse
 - o Sexual activity involving a dependent child
 - o Being forced as a caretaker relative of a dependent child to engage in non-consensual acts or activities.
 - o Threats of or attempts at physical or sexual abuse
 - o Mental abuse, and
 - o Neglect or deprivation of medical care. BEM, Item 255, pp.2-3

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, Item 255, page 14

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, Item 255, page 13-14

This Administrative Law Judge finds that Petitioner does not have good cause for failure to provide information about either child's father. Petitioner alleges that her first child was conceived as a result of forcible rape. Petitioner stated she did not contact police or press charges at the time and does not know who the father was. However, the Department investigated and determined that the name of the putative father on the first child's birth certificate is [REDACTED]. Petitioner alleged that she conceived the second child as a result of a one-night stand. Even if what Petitioner states is true, in that she does not remember who the man is, does not know the man's name or location and may have only engaged in sexual activity with him one time because of a one-night stand, lack of knowledge is not an established good cause reason in Department policy for failure to provide information. All recipients are required to cooperate to establish paternity and/or child support pursuant to 45 Code of Federal Regulations 264.30; Michigan IV-D Child Support Manual Section 2.15, "Cooperation/Noncooperation/Good Cause", and Bridges Eligibility Manual (BEM) 255, Child Support. Petitioner has not provided sufficient information to the Department to establish the identity of her children's father or fathers. The Child Support Sanction must stand.

Therefore, this Administrative Law Judge finds that the Department has established by the necessary competent, material and substantial evidence on the record that it was acting in compliance with department policy when it reduced Petitioner's Food Assistance Program and denied the application for Child Development and Care benefits because Petitioner did not provide information about the paternity of her child. This Administrative Law Judge finds Petitioner's testimony lacks credibility and even if true, does not establish good cause for failure to provide sufficient information to establish paternity of her child. The Department's decision to find Petitioner to be noncompliant and in non-cooperation with child support is appropriate under the circumstances. Therefore, the Department's actions must be UPHELD.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department has appropriately established on the record that it was acting in compliance with department policy when it reduced Petitioner's FAP benefits and denied Petitioner's application for CDC based upon the determination that Petitioner did not provide good cause for her failure to provide information about the paternity of her child and based upon the fact that she did not provide sufficient information about the paternity of her child.

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

LL/hb



Landis Lain
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

Ingham County, DHHS

BSC2 via electronic mail

L. Brewer-Walraven via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

Dept. Contact

Office of Child Support (OCS)-MDHHS
235 S. Grand Ave., Ste. 810
Lansing, MI 48903

Petitioner

[REDACTED]
[REDACTED], MI [REDACTED]