



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
Christopher Seppanen
Executive Director

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: March 24, 2017
MAHS Docket No.: 17-002345
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Zainab A. Baydoun

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; and Mich Admin Code, R 792.11002. After due notice, a three way telephone hearing was held on March 16, 2017, from Detroit, Michigan. The Petitioner appeared for the hearing and represented herself. The Department of Health and Human Services (Department) was represented by Crystal Conlin, Family Independence Specialist and Patricia Breggs, Lead Specialist with the Office of Child Support.

ISSUE

Did the Department properly process Petitioner's Food Assistance Program (FAP) and Family Independence Program (FIP) cases and determine that she was ineligible for FAP and FIP benefits on the basis that she was in noncooperation with child support requirements?

Did the Department properly process Petitioner's Child Development and Care (CDC) 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. On or around [REDACTED], 2016, Petitioner submitted an application for FAP and FIP benefits.

2. On an unverified date, Petitioner was approved for FIP benefits and FAP benefits for a group size of two.
3. On December 8, 2016, and December 17, 2016, the OCS sent Petitioner contact letters instructing her to contact OCS and provide information on the absent parent of Child A (Male, DOB: ██████████, 2016). (Exhibit A, pp. 7-13)
4. On December 26, 2016, the Department placed Petitioner in noncooperation with child support requirements.
5. On December 27, 2016, the OCS sent Petitioner a Noncooperation Notice advising her that she was found to be in noncooperation with child support requirements. (Exhibit A, p. 14-15)
6. On December 28, 2016, the Department sent Petitioner a Notice of Case Action advising her that effective February 1, 2017, her FIP case would be closed, her FAP benefits reduced to \$194, and FAP group size reduced to one on the basis that she failed to cooperate in establishing paternity or securing child support. Petitioner was disqualified from the FAP group based on a noncooperation with child support requirements. (Exhibit A, pp. 17-21)
7. On ██████████, 2017, Petitioner requested a hearing disputing the Department's actions with respect to her FIP, FAP and CDC benefits. (Exhibit A, pp. 2-3)
8. Prior to her hearing request, Petitioner had neither applied for CDC benefits nor had an active CDC case with the Department.

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).

CDC

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.

Regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in Mich Admin Code, R 792.10101 to R 792.10137 and R 792.11001 to R 792.11020. Rule 792.11002(1) provides as follows:

An opportunity for a hearing shall be granted to an applicant who requests a hearing because his or her claim for assistance is denied or is not acted upon with reasonable promptness, has received notice of a suspension or reduction in benefits, or exclusion from a service program, or has experienced a failure of the agency to take into account the recipient's choice of service.

A client's request for hearing must be in writing and signed by an adult member of the eligible group, adult child, or authorized hearing representative (AHR). Department of Health and Human Services Bridges Administrative Manual (BAM) 600 (October 2016), p. 2. Moreover, BAM 600, p. 6 provides that a request for hearing must be received in the Department local office within 90 days of the date of the written notice of case action. MAHS may grant a hearing about a denial of an application and/or supplemental payments; reduction in the amount of program benefits or service; suspension or termination of program benefits or service; restrictions under which benefits or services are provided or delay of any action beyond the standards of promptness. BAM 600, pp.4-5.

In the present case, Petitioner requested a hearing on [REDACTED], 2017, and checked the box indicating she disputed the Department's actions with respect to the CDC program. At the hearing, Petitioner confirmed that prior to her hearing request, she had neither submitted an application for CDC benefits nor had she been an active and ongoing recipient of CDC benefits with the Department. Petitioner failed to establish that the Department had taken any negative action on her CDC case prior to the hearing request. Therefore, because the Department had neither determined Petitioner's eligibility for CDC benefits nor had the Department taken any negative action with respect to Petitioner's CDC benefits prior to her hearing request; Petitioner's hearing request with respect to CDC is **DISMISSED** for lack of jurisdiction.

FIP/FAP

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Department of Human Services) administers FIP pursuant to 45 CFR 233-260, MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3101-.3131.

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.

Additionally, the custodial parents 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 and payment for medical care from any third party. BEM 255 (April 2015), pp. 1,9. A client's cooperation with paternity and obtaining child support is a condition of FAP eligibility. BEM 255, pp. 1, 9-13. Cooperation is required in all phases of the process to establish paternity and obtain support and includes contacting the support specialist when requested and providing all known information about the absent parent, among other things. BEM 255, p 9. For ongoing or active FAP cases, a failure to cooperate without good cause will result in member disqualification of the individual who failed to cooperate. BEM 255, p. 14. Any individual required to cooperate who fails to cooperate without good cause may result in group ineligibility for FIP. BEM 255, pp. 9-13.

At the hearing, the OCS representative stated that although Petitioner contacted the OCS and provided some information regarding the absent father, because she did not provide sufficient identifying information and because she provided conflicting information, it determined that she had additional knowledge about the absent father that she failed to provide. Thus, OCS determined that Petitioner was in noncooperation with child support requirements. Petitioner testified that she provided the OCS with all of the information that she had on the absent father. Petitioner testified that at the time her child was conceived, she was a heroin addict and a prostitute. Petitioner confirmed that she informed OCS that her child was conceived as a result of a one night stand and that she provided conflicting information about the absent father. Petitioner stated that she entered a methadone drug treatment program for pregnant women in [REDACTED] 2016 and that she continues to be active in an outpatient drug treatment program. Petitioner provided documentation in support of her testimony. (Exhibit 1).

Under the facts presented, the Department and the OCS have failed to establish that Petitioner had additional information regarding the father's identity that she failed to disclose, thereby, making her ineligible for FIP and FAP benefits.

DECISION AND ORDER

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, finds that the Department did not act in accordance with Department policy when it processed Petitioner's FIP and FAP benefits and found her ineligible for FIP and FAP benefits on the basis that she failed to cooperate with child support requirements.

Accordingly, the hearing request with respect to CDC is **DISMISSED** and the Department's FIP and FAP decisions are **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. Remove the child support sanction placed on Petitioner's FIP and FAP cases;
2. Reinstate Petitioner's FIP case effective February 1, 2017;
3. Issue FIP supplements to Petitioner for any FIP benefits she was eligible to receive but did not from February 1, 2017, ongoing;
4. Recalculate Petitioner's FAP budget to include her as an eligible member of her FAP group for February 1, 2017, ongoing;
5. Issue FAP supplements to Petitioner from February 1, 2017, ongoing, for any benefits that she was eligible to receive but did not; and
6. Notify Petitioner in writing of its decision



ZB/tlf

Zainab A. Baydoun

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) 335-6088; 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

Via Email:

DHHS Hearings Coordinator – 31 – 1843
BSC4 Hearing Decisions
D. Sweeney
D. Shaw
M. Holden
B. Cabanaw
MAHS

Petitioner – Via First-Class Mail:

[REDACTED]
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