



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: June 5, 2017
MAHS Docket No.: 17-005678
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 May 30, 2017, from Detroit, Michigan. The Petitioner appeared for the hearing with [REDACTED], her Social Security Representative Payee and represented herself. The Department of Health and Human Services (Department) was represented by Corlette Brown, Hearing Facilitator; Renee Swafford, Eligibility Specialist; and Jeff Koteles, Lead Worker with the Office of Child Support (OCS).

ISSUE

Did the Department properly process Petitioner's Food Assistance Program (FAP) case and determine that she was ineligible for FAP benefits on the basis that she was 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. Petitioner was previously an ongoing/active recipient of FAP benefits.
2. On February 4, 2017, and February 14, 2017, the OCS sent Petitioner contact letters instructing her to contact OCS and provide information on the absent parent of her son Child A (Male, DOB: [REDACTED], 2002). (Exhibit A, pp. 10-15)

3. On March 18, 2017, the Department placed Petitioner in noncooperation with child support requirements.
4. On March 19, 2017, the OCS sent Petitioner a Noncooperation Notice advising her that she was found to be in noncooperation with child support requirements. (Exhibit A, p. 7)
5. Petitioner contacted OCS on at least two occasions to provide information on the absent father of Child A. Petitioner advised OCS that she was involved in an accident which resulted in a head/brain injury and loss of memory. Petitioner also reported to OCS that she does not have any information on the absent father, as Child A was born 15 years ago.
6. On an unverified date, Petitioner's FAP case closed.
7. On or around [REDACTED], 2017, Petitioner reapplied for FAP benefits and was approved based on a household size of two (herself and her 15 year old son, Child A). (Exhibit A, p. 5)
8. On April 10, 2017, the Department sent Petitioner a Verification Checklist (VCL) instructing her to submit proof of her home rent and instructing her to contact the OCS by April 20, 2017, in order to comply with child support requirements. (Exhibit B)
9. Petitioner was disqualified from the FAP group (reducing the group size to one) and determined ineligible for FAP benefits effective May 1, 2017, based on her noncooperation with child support requirements. Petitioner's son continued to be eligible and received \$[REDACTED] in FAP benefits monthly. (Exhibit A, pp.4-5)
10. The Department did not send Petitioner a Notice of Case Action or other eligibility notice advising that she was ineligible for FAP benefits, that she was disqualified from the FAP based on a noncooperation with child support requirements, or that her FAP benefits were being decreased effective May 1, 2017.
11. On [REDACTED] 2017, Petitioner requested a hearing disputing the Department's actions with respect to her FAP benefits. (Exhibit A, p. 2)

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 disputed the Department's actions with respect to her FAP benefits, more specifically, the determination that she was in noncooperation with child support requirements and her subsequent disqualification from the FAP group.

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 (January 2017), 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. At application, the client has 10 days to cooperate with the OCS. The Department will inform the client to contact OCS in the Verification Checklist (VCL). If a client fails to cooperate on or before the VCL due date as required, a disqualification will be imposed. BEM 255, p. 12. 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.

At the hearing, the OCS representative stated that although Petitioner responded to the contact letters and VCL by calling OCS, because she did not provide sufficient identifying information on the absent father of Child A, it determined that Petitioner continued to be in noncooperation with child support requirements. The Department imposed a child support member disqualification and removed Petitioner from her FAP group effective May 1, 2017. However, there was no evidence presented that the Department sent Petitioner a notice of case action or other eligibility notice advising her of its action or the reduction in her FAP benefits as required by Department policy.

Petitioner testified that her son is now ■ years old and maintained that she does not have any information on the absent father. Petitioner credibly testified that in September 2004 she was involved in a car accident during which she suffered a fractured skull and a brain injury. Petitioner asserted that she notified the OCS and the Department of her injury and that it resulted in memory loss. Petitioner stated that she has problems with her memory and that she does not know who the father of her child is. Petitioner provided documentation from the ■ in support of her testimony concerning her medical conditions. (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 FAP benefits effective May 1, 2017.

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 FAP benefits and found her ineligible for FAP benefits on the basis that she failed to cooperate with child support requirements.

Accordingly, the Department's FAP 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. Remove the child support sanction placed on Petitioner's FAP case;
2. Recalculate Petitioner's FAP budget to include her as an eligible member of her FAP group for May 1, 2017, ongoing;
3. Issue FAP supplements to Petitioner from May 1, 2017, ongoing, for any benefits that she was eligible to receive but did not; and
4. 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:

MDHHS-Wayne-31-Grandmont-
Hearings@Michigan.gov
DHHS-OCS Hearings
BSC4 Hearing Decisions
D. Sweeney
M. Holden
MAHS

**Petitioner –
Via First-Class Mail:**

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