



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR



Date Mailed: July 5, 2017
MAHS Docket No.: 17-007039
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 three-way telephone hearing was held on June 29, 2017, from Detroit, Michigan. The Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by Johnnie Dankwa Smith, Eligibility Specialist. A witness, Patricia Bregg, Lead Worker, Office of Child Support also appeared.

ISSUE

Did the Department properly determine through its Office of Child Support (OCS) that the Petitioner is in noncooperation with the OCS?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. The Petitioner was a Food Assistance Program (FAP) applicant for a group of three members. The Petitioner applied for FAP on [REDACTED], 2017.
2. The Petitioner was placed in noncooperation with OCS on August 28, 2010. See Exhibits A and B and C. The Petitioner had no contact with OCS as result of their letters to her.
3. The Department did not provide a Notice of Case Action regarding the Petitioner's noncooperation status but testified that it removed the Petitioner from her FAP group for noncooperation with OCS.

4. The Department sent the Petitioner a Verification Checklist on April 14, 2017, advising her to contact the OCS.
5. The Petitioner requested a timely hearing on May 19, 2017, protesting the Department's actions.

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, the Petitioner was placed continued to be placed in noncooperation after contacting the OCS with regard to the recent request for verification of the absent parent request by the Department. At that time, the Petitioner did contact OCS; and she was unable to provide information to the OCS which would assist them in identifying the absent parent and father of her child. The Petitioner was originally placed in non cooperation due to failing to respond to letters sent to her in 2010 by the OCS. The Petitioner's contact with the absent parent was seven years ago in the State of Georgia. At the time, the Petitioner had a brief encounter with the absent parent and became pregnant. The Petitioner credibly testified that after she became pregnant, she had a phone number for the absent parent and told him she was pregnant and did not hear from him again. She no longer has the phone number and has not seen the absent parent again. At the time of the hearing, the Petitioner's child was still fatherless and was approximately seven years of age. The Petitioner testified that she provided OCS all the information she had, which unfortunately was the absent parent's first name, "Blue," and no longer has the phone number. Overall, the Petitioner's testimony that she had no information regarding the identity of the absent parent was credible and was not unanticipated given the number of years since the incident giving rise to her pregnancy and birth of her child. The Petitioner also expressed concern for her child who would never know the absent parent father.

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.

At application, client has 10 days to cooperate with the OCS. Bridges informs the client to contact the OCS in the verification check list (VCL).

The disqualification is imposed if client fails to cooperate on or before the VCL due date when all of the following are true:

- There is a begin date of non-cooperation in the absent parent logical unit of work.
- There is **not** a subsequent comply date.
- Support/paternity action is still a factor in the child's eligibility.
- Good cause has not been granted nor is a claim pending; see **Good Cause For Not Cooperating** in this item.

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, p. 1.

If the client is cooperating at reapplication, but has not served the minimum one-month penalty for FIP or FAP, Bridges determines eligibility for the month following the penalty month; see **FIP Disqualification** in this item.

Do all of the following at the application interview:

- Inform the applicant that the disqualification will be imposed unless a comply date is received from the support specialist.
- Encourage the applicant to cooperate with the support specialist and discuss the consequences of the non-cooperation.

Promptly refer persons who indicate a willingness to cooperate to the primary worker from the CS icon. A support specialist can be reached at 1-866-540-0008 or 1-866-661-0005 to re-evaluate the individual's cooperation status; see **Removing a Support Disqualification** in this item.

Cooperation is a condition of eligibility. The following individuals who receive assistance on behalf of a child are required to cooperate in establishing paternity and obtaining support, unless good cause has been granted or is pending:

- Grantee (head of household) and spouse.
- Specified relative/individual acting as a parent and spouse.
- Parent of the child for whom paternity and/or support action is required.

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, pp. 9-10.

Based upon the evidence presented at the hearing and the credible testimony of the Petitioner that she provided all known information about the absent parent, it is determined that the Petitioner did not withhold information, nor did she fail to cooperate, given the facts of this case. There is nothing further that Petitioner can do to obtain any further information and therefor it is determined that she has cooperated.

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 found that the Petitioner failed to cooperate with the OCS.

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. The OCS shall remove the Petitioner's noncooperation with the OCS and issue a Notice of Cooperation as of the date of this Hearing Decision.
2. The Department shall reinstate the Petitioner to her FAP group as of the Hearing Decision date.

LMF/jaf



Lynn M. Ferris
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

Department Representative

Office of Child Support (OC)-MDHHS
201 N Washington Square
Lansing MI 48933

Petitioner



DHHS

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