



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 12, 2017
MAHS Docket No.: 17-007383
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; 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 July 6, 2017, from Detroit, Michigan. The Petitioner appeared for the hearing and represented herself. The Department of Health and Human Services (Department) was represented by Chauntay Moore, Eligibility Specialist and Anissa Ali, Lead Child Support Specialist with the Office of Child Support (OCS).

ISSUE

Did the Department properly determine that Petitioner was ineligible for Food Assistance Program (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 an ongoing recipient of FAP benefits for a group size of two: herself and her daughter (Child A, DOB: [REDACTED], 2013).
2. On April 25, 2017, and May 6, 2017, the OCS sent Petitioner contact letters instructing her to contact OCS and provide information on the absent parent of Child A. (Exhibit B, pp. 11-16)

3. On May 14, 2017, the Department placed Petitioner in noncooperation with child support requirements. (Exhibit B, p. 5)
4. On May 14, 2017, the OCS sent Petitioner a Noncooperation Notice advising her that she was found to be in noncooperation with child support requirements. (Exhibit B, p. 19)
5. On May 16, 2017, the Department sent Petitioner a Notice of Case Action advising her that effective June 1, 2017, she was disqualified from the FAP group (reducing the group size to one) and determined ineligible for FAP benefits based on her noncooperation with child support requirements. Petitioner's daughter continued to be eligible to receive \$194 in FAP benefits monthly. (Exhibit A)
6. Petitioner contacted OCS on at least three occasions (May 1, 2017, May 19, 2017, and May 22, 2017) to provide information on the absent father of Child A and reported, among other things, that she was ■ years old at the time her child was conceived and was having sex with multiple unknown men for money. Petitioner also reported to OCS that she does not have any information on the absent father. (Exhibit B, p. 8, 20)
7. On May 24, 2017, Petitioner requested a hearing disputing the Department's actions with respect to her FAP benefits. (Exhibit B, p. 3-4)

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. 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 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 June 1, 2017. Petitioner, who is now around [REDACTED] years old, testified that her child was conceived when she was only 13 years old. Petitioner testified that she does not have any identifying information on the absent father of Child A because at the time of conception, she was living in [REDACTED] and having sex with multiple men each night for money. Petitioner stated that she was rarely with the same man more than once.

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 June 1, 2017.

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 determined that Petitioner was in noncooperation with child support requirements.

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. 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 June 1, 2017, ongoing;

3. Issue FAP supplements to Petitioner from June 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

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