



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: August 21, 2017
MAHS Docket No.: [REDACTED]
Agency No.: 115050263
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 August 9, 2017, from Detroit, Michigan. The Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by Eileen Kott, FIM and Dale Daniely, Eligibility Specialist. Charlotte Parker, Senior Child Support Specialist from the Office of Child Support also appeared as a witness.

ISSUE

Did the Department properly find the Petitioner in noncooperation with the Office of Child Support (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 Department found the Petitioner in noncooperation with the Office of Child Support (OCS) and removed Petitioner from her FAP group.
2. The Petitioner filed an application dated [REDACTED] 2017, stating that the father of the child in question abandoned the child and stated the same information in another application filed [REDACTED] 2017.

3. At the conference held July 12, 2017, the Petitioner advised the Department that she was raped and never reported the rape.
4. The Petitioner was sent a verification request asking her to contact the OCS on or before June 30, 2017 to comply with OCS requirements.
5. The OCS issued a Noncooperation Notice on May 16, 2016 due to Petitioner's failure to respond to two contact letters issued by OCS. OCS Exhibits 1 and 2
6. The Petitioner filed an application for Child Care benefits on [REDACTED] 2016 and indicated that the father of child, [REDACTED] was unknown and noted abandonment. Exhibit 5
7. On [REDACTED], 2017, the Petitioner filed an application for FAP, CDC and health care benefits. In the application, Petitioner indicated that child [REDACTED] father was unknown and that the father abandoned the child.
8. The Department issued a Notice of Case Action on May 23, 2017 denying the Petitioner's application for CDC and decreased her FAP benefits, due to her failure to comply and cooperate with the Office of Child Support. Exhibit 9
9. The Petitioner filed a hearing request on [REDACTED], 2017 protesting the Department's finding that she was in noncooperation with the OCS.

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 Department found the Petitioner in Noncooperation with the OCS.

FIP, CDC Income Eligible, MA and FAP

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. BEM 255 (January 1, 2017), p. 9-10

The issue in this case is whether the OCS correctly determined that the Petitioner was in noncooperation when it issued its Notice of Noncooperation May 16, 2016.

At the hearing, the Petitioner's attempts at cooperation with OCS were documented as follows (it must be noted that at no time did the Petitioner provide a full name for the alleged absent parent even though she knew the individual for several months): the child in question was born [REDACTED] 2014; in the first interview with OCS, Petitioner advised that she did not know who the father was as she was with multiple guys whose names were not given; again on September 6, 2016, the Petitioner advised that the father of her other children with the last name of [REDACTED] was not the father of the child in question based upon a paternity test. The Petitioner also gave the name of [REDACTED] (with no last name) whom she met on the street as a possible father. She also indicated he had a nickname, "[REDACTED]" and she could not remember his phone number. The Petitioner also told an OCS manager that she had known this man for a year and was with him for 2 months and had sex with him. In March of 2017 she told the Department that she had a one-night stand with the person who was on Facebook and known as [REDACTED] as an alias. The Department was unable to locate the father with this Facebook information as there were several persons with that identification. The Petitioner also gave an address but the person residing there was 46 years of age and was named [REDACTED]. Petitioner also attempted to get the possible father's information from another person named [REDACTED] without success. Ultimately the Petitioner's various information and identifications did not lead to the identity of the absent father.

The undersigned after reviewing the facts and the testimony of Petitioner find that her testimony is not credible. The Petitioner, based upon the length of time she knew the alleged father or those persons with the alleged potential paternity, should have yielded

reliable information. The information and the change in factual information given is not believable. In addition, the Petitioner has told several stories about the child's conception which differ and thus are also deemed not credible.

Based upon the information provided the OCS, the Petitioner has not cooperated with respect to the child conceived in 2014 and has given very inconsistent information regarding the incident of her one-night stand and other testimony regarding her contact with the potential alleged absent father. Based upon the Petitioner's testimony, and the serious inconsistency of stories provided to OCS and the Department, it is determined that the OCS properly continued to place the Petitioner in noncooperation as her information was not credible. The various factual stories are grossly inconsistent as described above.

The Petitioner due to her noncooperation is ineligible for FAP and will not be counted as a group member, however the remaining members will continue to be eligible to receive FAP benefits if otherwise eligible. BEM 255, p. 15.


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 acted in accordance with Department policy when it removed the Petitioner from her FAP group due to noncooperation with OCS.

DECISION AND ORDER

Accordingly, the Department's decision is

AFFIRMED.

LF/hw



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

DHHS

MDHHS-Wayne-76-Hearings
BSC4-Hearings
FAP
(via email)

Department Representative

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

Petitioner

████████████████████
████████████████████
████████████████████