



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: December 11, 2017
MAHS Docket No.: 17-012234
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Ellen McLemore

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 telephone hearing was held on December 11, 2017, from Detroit, Michigan. Petitioner was present and represented herself. The Department of Health and Human Services (Department) was represented by Lynda Brown, Hearing Facilitator, and Jeff Koteles, Lead Worker with the Office of Child Support (OCS).

ISSUE

Did the Department properly decrease Petitioner's Food Assistance Program (FAP) benefits for failing to cooperate 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. Petitioner was an ongoing FAP recipient.
2. On August 6, 2016, OCS sent Petitioner a Noncooperation Notice.
3. On August 9, 2016, the Department sent the Petitioner a Notice of Case Action stating that her FAP benefits were being reduced for her failure to cooperate with OCS.
4. On September 15, 2017, Petitioner requested a hearing to dispute 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.

The Department issued a Notice of Case Action on August 9, 2016, informing Petitioner that her FAP benefit amount had been reduced due to her failure to cooperate with OCS. A request for a hearing must be submitted within 90 days from the date of the written notice of case action. BAM 600 (April 2017), p. 6. However, an exception applies to FAP Cases and a request for a hearing disputing the current level of benefits may be made any time within the benefit period. BAM 600, P. 7. "Current" is interpreted to refer to the client's eligibility as of the hearing request month. Based on Petitioner's hearing request submission from September 15, 2017, Petitioner may dispute September 2017 FAP eligibility ongoing.

Additionally, Department policy requires the custodial parent of children to 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. BEM 255 (January 2017), p. 1. Cooperation is a condition of eligibility. BEM 255, p. 9. Cooperation includes: contacting the support specialist when requested, providing all known information about the absent parent, appearing at the office of the prosecuting attorney when requested, and 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, p. 9.

In this case, Petitioner named an individual she believed to be the father. However, genetic testing ruled the individual out as the child's biological father on or around May 20, 2016. As a result, OCS sent Petitioner contact letters on July 19, 2016, and July 30, 2016, requesting information on other potential fathers. Petitioner did not respond to either letter. OCS sent Petitioner a Notice of Noncompliance on August 7, 2016. The Department sent Petitioner the Notice of Case Action reducing her FAP benefits on August 9, 2016, informing her that her FAP benefit amount was reduced due to the noncompliance.

On August 15, 2016, Petitioner contacted OCS. Petitioner stated that she believed the individual that she previously named was the only possible father of her child. Petitioner

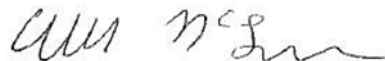
stated that she believed the test excluding the individual as the father was inaccurate. Petitioner contacted OCS again on December 6, 2016, and reiterated the same narrative.

At the hearing, Petitioner testified that she still believed the individual that had been excluded was the father of her child. Petitioner stated that she believed the individual had cheated the test. Petitioner also stated that she was frustrated by the situation and had “washed her hands” of the matter. Petitioner stated she did not want to complete retesting of the potential father. Petitioner had not formally disputed the results of the genetic test with the Prosecuting Attorney.

Failure to cooperate without good cause results in disqualification of the individual who failed to cooperate from the FAP group. BEM 255, p.14. The individual that Petitioner named as the child’s father has been excluded by genetic testing. Petitioner has not formally disputed the result. Petitioner has also not provided any information to OCS regarding any other potential fathers. Therefore, the Department properly continued to exclude Petitioner from the FAP group on the basis of noncooperation with OCS.

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 acted in accordance with Department policy when it continued to exclude Petitioner from the FAP group. Accordingly, the Department’s decision is **AFFIRMED**.



EM/

Ellen McLemore

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-Macomb-20-Hearings

Department Representative

MDHHS-OCS-Hearings

Petitioner

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