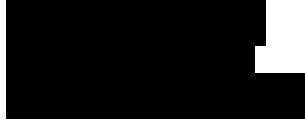




RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR



Date Mailed: November 30, 2017
MAHS Docket No.: 17-012737
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 November 2, 2017, from Detroit, Michigan. The Petitioner appeared for the hearing and represented herself. The Department of Health and Human Services (Department) was represented by Arnesia Woods, Hearing Liaison and Renee Boucher, Lead Specialist with the Office of Child Support (OCS).

ISSUE

Did the Department properly deny Petitioner's application for Family Independence Program (FIP) benefits?

Did the Department properly deny Petitioner's application for Child Development and Care (CDC) benefits and determine that she was ineligible for Food Assistance Program (FAP) benefits on the basis that she failed to cooperate 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. On October 8, 2016 and October 17, 2016 the OCS sent Petitioner contact letters instructing her to contact OCS and provide information on the absent parent of Child A. (Exhibit F)

2. On October 26, 2016, the OCS sent Petitioner a Noncooperation Notice advising her that she was found to be in noncooperation with child support requirements. (Exhibit F)
3. On October 26, 2016 the Department placed Petitioner in noncooperation with child support requirements and determined she was ineligible for FAP benefits.
4. On or around November 2, 2016 Petitioner contacted the OCS and provided some information on the father of Child A, including, his name, date of birth, and physical description. (Exhibit F)
5. The OCS determined that the information provided was insufficient and Petitioner continued to be disqualified from the FAP.
6. Petitioner's two children were ongoing recipients of FAP benefits.
7. On [REDACTED], 2017 Petitioner submitted an application for FIP, CDC, and FAP benefits. Petitioner requested to be added to her children's existing FAP case. (Exhibit A)
8. On August 29, 2017 the Department sent Petitioner a Verification Checklist (VCL) instructing her to submit verification of her CDC need and to contact the OCS to comply with child support requirements by September 8, 2017. (Exhibit D)
9. On August 29, 2017 the Department sent Petitioner a PATH Appointment Notice instructing her to attend an appointment for orientation on [REDACTED], 2017. The PATH Appointment Notice advised Petitioner that she is to contact her specialist if she needs assistance with child care in order to attend PATH. (Exhibit B)
10. On September 8, 2017 Petitioner went to her local Department office to discuss the VCL, the PATH Appointment Notice and her compliance with OCS requirements with her case worker. Petitioner informed the Department that she could not attend PATH orientation on [REDACTED], 2017 because she did not have child care.
11. On September 8, 2017 Petitioner contacted the OCS and provided a last known address for the father of Child A. The OCS determined that information provided was insufficient. (Exhibit F).
12. On September 20, 2017 the Department sent Petitioner a Notice of Case Action (Notice) advising her that her CDC application was denied on the basis that verification of compliance with the OCS was not returned. The Notice further advised Petitioner that she was ineligible for FAP benefits and thus disqualified from the FAP because she failed to cooperate with child support requirements. (Exhibit E)
13. Petitioner's two children continued to be eligible for FAP benefits. (Exhibit E)

14. On September 21, 2017 the Department sent Petitioner a Notice of Case Action advising her that her FIP application was denied on the basis that she failed to attend PATH orientation. (Exhibit C)
15. On September 28, 2017 Petitioner requested a hearing disputing 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).

FIP

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Department of Human Services) administers FIP pursuant to 45 CFR 233-260, MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3101-.3131.

As a condition of FIP eligibility, all Work Eligible Individuals ("WEI") must engage in employment and/or self-sufficiency related activities, such as participating in the Partnership. Accountability Training. Hope. (PATH) program. BEM 233A (April 2016), pp. 1-2. PATH participants must complete the 21-day PATH application eligibility period (AEP) part of orientation which is an eligibility requirement for approval of the FIP application. BEM 229 (October 2015), pp. 1- 6. This requires that the client (i) begin the AEP by the last date to attend as indicated on the PATH Appointment Notice, (ii) complete the PATH AEP requirements, and (iii) continue to participate in PATH after completion of the 21-day AEP. BEM 229, p. 1. The last day to attend AEP/orientation may be extended when necessary. BEM 229, pp. 6-7. Failure by a client to complete the three components of the AEP referenced above or to participate fully in assigned activities while the FIP application is pending will result in denial of FIP benefits. BEM 229, pp. 1-6.

Child care barriers are common and the Department is required to identify and provide direct support services as needed. The Department is responsible and must assist clients who present with child care barriers before requiring PATH attendance; see BEM 232 Direct Support Services. BEM 229, p. 2. The Department is to temporarily defer an applicant with identified barriers until the barrier is removed. Additionally, clients should not be referred to orientation and AEP until it is certain that barriers to participation such as lack of child care or transportation have been removed, possible reasons for deferral have been assessed and considered, and disabilities have been accommodated. BEM 229, p. 2.

At the hearing, the Department testified that Petitioner's FIP application was denied because she did not attend PATH orientation as instructed in the PATH Appointment Notice. Petitioner testified that on September 8, 2017 she spoke with her case worker and informed the Department that she could not attend PATH orientation on [REDACTED], 2017 because she did not have child care, which is why she applied for CDC assistance. Petitioner was told by her Department case worker that the Department would assist her with obtaining child care but did not do so prior to her rescheduled PATH orientation appointment. Based on the evidence presented, the Department should have assisted Petitioner with resolving her child care barrier prior to requiring her to attend PATH and further, temporarily deferred her participation in the PATH until her child care barrier was removed. As such, the Department did not act in accordance with Department policy when it denied Petitioner's FIP application on the basis that she failed to attend PATH orientation.

FAP/CDC

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 Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, 42 USC 601-619, 670-679c, and 1397-1397m-5; the Child Care and Development Block Grant of 1990, PL 101-508, 42 USC 9858 to 9858q; and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193. The program is implemented by 45 CFR 98.1-99.33. The Department administers the program pursuant to MCL 400.10 and provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001-.5020.

In this case, the Department testified that Petitioner's CDC application was denied and she was disqualified from the FAP because she was found to be in noncooperation with child support requirements.

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 and CDC 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 FIP, CDC and FAP application, the client has 10 days to cooperate with the OCS. The Department informs the client to contact OCS in

the verification checklist. The disqualification is imposed if the client fails to cooperate on or before the VCL due date when the factors listed in BEM 255 at pp. 11-12 are true. See BEM 255, pp. 9-12. For CDC cases, a failure to cooperate without good cause with the OCS requirements will result in group ineligibility for CDC. The Department will close or deny the CDC case when a child support non-cooperation record exists and there is no corresponding comply date. For 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 initially, Petitioner was placed in noncooperation with child support requirements on October 26, 2016 because she did not respond to the contact letters sent to her requesting information on Child A's father. The OCS representative testified that although Petitioner contacted the OCS on November 2, 2016 and September 8, 2017 and provided some information, 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, as it could not locate the alleged father. The Department subsequently sent Petitioner the Notice of Case Action dated September 20, 2017 advising her that her CDC application was denied and she continued to be disqualified from the FAP group based on her noncooperation with child support requirements.

Petitioner testified that she provided the OCS with all of the identifying information that she had available to her regarding the father of her child. Petitioner provided OCS with Child A's father's name (Jeremy Miller), date of birth, physical description and the last known address that she was aware of. Petitioner testified that her child was conceived when she was living with her brother in a trailer park in [REDACTED], which is where she met the father of Child A. Petitioner testified that in January 2016 she moved from the trailer park and contacted the father of Child A to inform him that she was pregnant and he hung up on her. Petitioner asserted that she has not had any contact with him since that time and does not know anyone else who may know him or his whereabouts.

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 CDC and FAP benefits.

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 FIP, FAP and CDC 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 noncooperation sanction/disqualification imposed on Petitioner's cases;
2. Register and process Petitioner's [REDACTED], 2017 FIP, FAP and CDC application to determine her eligibility for FIP, FAP and CDC benefits from the application date, ongoing;
3. Supplement Petitioner for any FAP and FIP benefits she was eligible to receive but did not from the application date, ongoing;
4. Supplement Petitioner and/or her CDC provider for any CDC benefits she was eligible to receive but did not from the application date, ongoing; and
5. Notify Petitioner in writing of its decisions.



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-57-Hearings
DHHS-OCS
BSC4 Hearings
L. Brewer-Walraven
D. Sweeney
G. Vail
M. Holden
MAHS

Petitioner – Via First-Class Mail:

