



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

SHELLY EDGERTON
DIRECTOR



Date Mailed: November 15, 2017
MAHS Docket No.: 17-013330
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 November 9, 2017, from Detroit, Michigan. Petitioner was present and represented herself. The Department of Health and Human Services (Department) was represented by Mark Boyd, Family Independence Manager, and Anissa Ali, Lead Child Support Specialist.

ISSUES

1. Did the Department properly decrease Petitioner's Food Assistance Program (FAP) benefits for failing to cooperate with the Office of Child Support (OCS)?
2. Did the Department properly deny Petitioner's application for State Emergency Relief (SER) for failing to cooperate with 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 February 5, 2016, OCS sent Petitioner a Noncooperation Notice (Exhibit C).
3. On February 5, 2016, the Department sent Petitioner a Notice of Case Action informing her that she was disqualified from the FAP group and her benefits were

being decreased effective March 1, 2016, ongoing, for her failure to cooperate with OCS (Exhibit F).

4. On [REDACTED], 2017, Petitioner submitted an application for SER benefits for non-energy relocation services (Exhibit H).
5. On August 24, 2017, the Department sent Petitioner a State Emergency Relief Decision Notice informing her that her request for SER benefits was denied for her failure to cooperate with OCS (Exhibit G).
6. On October 9, 2017, Petitioner submitted a request for hearing disputing the Department's actions regarding her SER application and FAP benefit amount.

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 State Emergency Relief (SER) program is established by the Social Welfare Act, MCL 400.1-.119b. The SER program is administered by the Department (formerly known as the Department of Human Services) pursuant to MCL 400.10 and Mich Admin Code, R 400.7001-.7049.

In this case, OCS placed Petitioner in noncooperation status on February 5, 2016. As a result, the Department disqualified Petitioner from the FAP group and decreased her FAP benefit amount. The Notice of Case Action was sent February 5, 2016, regarding Petitioner's FAP benefit case. Petitioner also submitted an application for SER benefits on [REDACTED], 2017. On August 24, 2017, Petitioner was notified she was not eligible for SER benefits, because of her noncompliance 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 October 9, 2017, Petitioner may dispute October 2017 FAP eligibility ongoing, as she did not timely request a hearing disputing the Department's February 5, 2016, action regarding her FAP benefit case. Petitioner submitted a timely request regarding the Department's August 24, 2017, action pursuant to her request for SER benefits. Therefore, the matter will be addressed.

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.

OCS sent Petitioner a First Customer Contact Letter from OCS on December 10, 2015, requesting that she contact their office within 10 days. OCS received no response from the Petitioner. OCS sent the Petitioner a Final Customer Contact Letter on January 9, 2016, again requesting that she contact their office within 10 days. The Petitioner failed to comply with the request and she was issued a Noncooperation Notice on February 5, 2016.

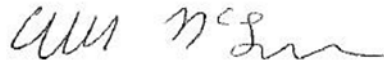
On April 5, 2016, Petitioner contacted OCS for the first time and reported that the child in question was product of rape. Petitioner stated she did not file a police report. At the hearing, Petitioner testified that the information she provided OCS in April 2016 was false. Petitioner stated she has always known the identity of the father and knowingly failed to provide the information until October 23, 2017. Petitioner acknowledged she failed to comply with OCS.

As Petitioner acknowledged she failed to comply with OCS, the Department properly placed Petitioner in noncooperation status. Therefore, the Department acted in accordance with policy when it disqualified Petitioner from her FAP group and denied her SER application for her noncompliance 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 disqualified Petitioner from her FAP group and denied her SER application for her noncompliance with OCS.

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-Wayne-57-Hearings

Department Representative

MDHHS-OCS-Hearings

Petitioner



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