



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR



Date Mailed: January 12, 2018
MAHS Docket No.: 17-014851
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, telephone hearing was held on January 3, 2018, from Lansing, Michigan. Petitioner represented herself. The Department was represented by Leonard Garza and Theresa Sharpe, Lead Worker at the Office of Child Support.

ISSUE

Did the Department of Health and Human Services (Department) properly determine Petitioner's eligibility for Food Assistance Program (FAP) benefits?

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 May 20, 2017, the Department requested that Petitioner provide information necessary to identify and locate the absent parent of her child. Exhibit A, p 13.
2. On May 26, 2017, the Petitioner was interviewed by telephone concerning the circumstances of her child's conception. Exhibit A, p 15.
3. On June 7, 2017, the Department notified Petitioner that she had been found to be noncooperative with efforts by the Office of Child Support to identify and locate the absent father of her child. Exhibit A, p 8.
4. On September 29, 2017, the Department denied Petitioner's request for Family Independence Program (FIP) benefits effective November 1, 2017. Exhibit A, p 18.

5. On November 2, 2017, the Department notified Petitioner that it had denied her application for State Emergency Relief (SER) benefits. Exhibit A, pp 5-6.
6. On November 8, 2017, the Department received Petitioner's request for a hearing. Exhibit A, p 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 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.

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.

Families are strengthened when children's needs are met. Parents have a responsibility to meet their children's needs by providing support and/or cooperating with the department, including the Office of Child Support (OCS), the Friend of the Court (FOC) and the prosecuting attorney to establish paternity and/or obtain support from an absent parent. The custodial parent or alternative caretaker 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. Failure to cooperate without good cause results in disqualification. Disqualification includes member removal, as well as denial or closure of program benefits. Department of Human Services Bridges Eligibility Manual (BEM) 255 (January 1, 2018), pp 1-2.

Groups that are non-cooperative with the Office of Child Support are also ineligible for SER. Department of Health and Human Services Emergency Relief Manual (ERM) 203 (June 1, 2013), p 2.

Petitioner applied for SER benefits seeking assistance with her obligation to pay a propane bill. The Department denied that application on November 2, 2017, because she had been found to be noncooperative with the Office of Child Support on June 7, 2017. The Department is required to deny applications for SER benefits when the applicant is noncooperative with the Office of Child Support as directed by ERM 203.

On September 29, 2017, the Department denied FIP benefits and sanctioned FAP benefits based on Petitioner's noncooperation sanction.

The Office of Child Support representative did not have personal knowledge of the information Petitioner reported during a telephone interview on May 26, 2017. The Office of Child Support representative testified that Petitioner was found to be noncooperative with attempts to identify and locate the absent parent of her child based on the lack of detail given during her description of the circumstances leading to the conception of her child.

Petitioner testified that she became pregnant during chance encounter with an unknown person in bar parking lot.

Petitioner testified under oath that she had fully disclosed on the information she was aware of concerning the father of her child. The Department failed to present any evidence that Petitioner knows more than she is disclosing. This Administrative Law Judge finds that it is not warranted to sanction Petitioner's benefits for noncooperation in the absence of any evidence that she is withholding facts that could lead to the identification of the father of her child. (See *Black v Department of Social Services*, 195 MichApp 27, 489 NW2d 493).

Therefore, this Administrative Law Judge finds that the Department failed to properly determine Petitioner's eligibility for FIP and FAP benefits.

After the denial of Petitioner's SER application, Petitioner was able to pay her propane bill by other means. Applicants for SER benefits are required to take actions to make potential resources available to resolve their emergency. In this case, Petitioner successfully resolved her emergency through another resource. Petitioner did not dispute that the emergency was resolved. Therefore, Petitioner failed to establish that she is eligible for SER 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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it sanctioned Petitioner's Family Independence Program (FIP) and Food Assistance Program (FAP) benefits. The denial of State Emergency Relief (SER) benefits is upheld.

DECISION AND ORDER

Accordingly, the Department's denial of State Emergency Relief (SER) benefits is **AFFIRMED**.

The Department's eligibility determination with respect to Family Independence Program (FIP) and Food Assistance Program (FAP) 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:

Delete the noncooperation sanction from Petitioner's benefit file and initiate a determination of the Petitioner's eligibility for Family Independence Program (FIP) and Food Assistance Program (FAP) benefits effective November 1, 2017, in accordance with policy.

KS/nr



Kevin Scully
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

Holly DeGroat
515 South Sandusky
Sandusky, MI
48471

Sanilac County DHHS- via electronic mail

BSC2- via electronic mail

M. Holden- via electronic mail

D. Sweeney- via electronic mail

G. Vail- via electronic mail

B. Cabanaw- via electronic mail

T. Bair- via electronic mail

E. Holzhausen- via electronic mail

Department Representative

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

Petitioner

