



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: February 13, 2018
MAHS Docket No.: 17-015951
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 February 8, 2018, from Detroit, Michigan. Petitioner was present and represented herself. The Department of Health and Human Services (Department) was represented by Lynne Crittendon, Lead Support Specialist with the Office of Child Support (OCS), and Kathleen Scorpio-Butina, Hearing Facilitator.

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. On July 19, 2013, OCS sent the Petitioner a Noncooperation Notice.
2. On [REDACTED], 2017, Petitioner submitted an application for FAP benefits.
3. On December 11, 2017, the Department sent Petitioner a Notice of Case Action informing Petitioner that she had been approved for FAP benefits, but that she had been disqualified from the group due to her failure to cooperate with OCS.
4. Petitioner submitted a request for 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).

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.

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 was sent a First Customer Contact Letter from OCS on June 13, 2013, requesting that she contact their office within 10 days. OCS received no response from the Petitioner. OCS sent Petitioner a Final Customer Contact Letter on July 2, 2013, again requesting that she contact their office within 10 days. Petitioner failed to comply with the request and she was issued a Noncooperation Notice on July 19, 2013. Petitioner did not receive benefits for a period of time. Petitioner submitted a new application for benefits on [REDACTED], 2017. On November 6, 2017, the Department sent Petitioner a Verification Checklist (VCL) informing her that she needed to contact OCS due to the noncooperation status. Petitioner was sent a Notice of Case Action on December 11, 2017, informing her that her application for FAP benefits was approved but that she was disqualified from the FAP group for her failure to cooperate with OCS.

On November 16, 2017, Petitioner contacted OCS and stated she did not know the identity of her child's father and provided no other information. On December 7, 2017, Petitioner contacted the Department and stated that she went to a party at a motel with her friends and became intoxicated. Petitioner stated she woke up alone with no clothes on the following day. Petitioner stated her friends had left the party and were unable to identify any individuals with which she had been in contact. Petitioner did not file a police report.

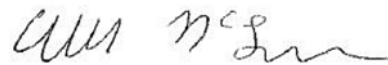
Petitioner stated she did not discover she was pregnant until April 16, 2013. At that time, she was around 37 weeks pregnant with a due date of May 4, 2013. Petitioner stated her physician informed her the possible time of conception could have been in August 2012, which was when she attended the motel party. Petitioner stated she had never engaged in intercourse prior to the motel party and surmised she must have conceived her child at that time. Petitioner did not attempt to determine the identity of the father due to the length of time that had passed since the party and the impending birth of her child.

Petitioner also stated she began dating an individual in January or February 2013, with which she had sexual contact. The Department requested identifying information regarding this individual. Petitioner refused to comply with the request. Petitioner believed he was not the father of her child and that she did not want to contact him, because their relationship ended poorly.

Although Petitioner may not have had any identifying information regarding a potential father during the point she believed she had conceived the child, which was at the motel party, Petitioner does have information regarding the boyfriend that the Department requested. The Department has a reasonable interest in identifying Petitioner's former boyfriend to rule him out as the father of her child. The Department testified that had Petitioner provided that information, even though she did not believe he was the father, she would have been placed in cooperation status until he was positively excluded as the father of her child. Petitioner's feelings of discomfort are insufficient to establish good cause for not providing the information requested by OCS. Therefore, the Department properly continued to exclude Petitioner from the FAP group on the basis of her 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/cg

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

Via Email:

MDHHS-Macomb-20-Hearings
M. Holden
D. Sweeney
DHS-OCS-Admin-Hearings
BSC4-Hearing Decisions
MAHS

Petitioner – Via First-Class Mail:

