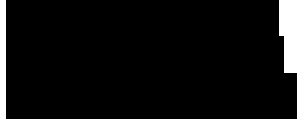




RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR



Date Mailed: April 6, 2018
MAHS Docket No.: 18-001273
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 April 5, 2018, from Detroit, Michigan. Petitioner was present and represented herself. The Department of Health and Human Services (Department) was represented by Candice Bennis, Hearing Facilitator and Patrick Dolton, Lead Worker with the Office of Child Support (OCS).

ISSUE

Did the Department properly deny Petitioner's Claim of Good Cause for an exception to the Office of Child Support (OCS) cooperation requirement?

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 March 26, 2017, OCS sent Petitioner a Noncooperation Notice (Exhibit D).
3. On March 27, 2017, the Department sent Petitioner a Notice of Case Action informing Petitioner that her FAP benefits were decreasing effective May 1, 2017, ongoing, as she had been disqualified from the group for her failure to cooperate with OCS (Exhibit A).
4. On January 2, 2018, Petitioner submitted a DHS-2168 Claim of Good Cause with a written statement (Exhibit B).

5. On February 7, 2018, the Department sent Petitioner a Notice of Case Action informing Petitioner that her claim of good cause had been denied (Exhibit C).
6. 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.

In this case, Petitioner requested a hearing disputing the Department's decision to deny her claim of good cause. Petitioner had been placed in noncooperation status by OCS in March 2017. As a result, Petitioner's FAP benefits were reduced, as she was disqualified from the FAP group. Petitioner submitted a Claim of Good Cause on January 2, 2018.

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.

Exceptions to the cooperation requirement are allowed for all child support actions except when the recipient fails to return assigned child support payments received after the support certification effective date. BEM 255, p. 2. There are two types of good cause. The first is cases in which establishing paternity/securing support would harm the child including: (i) the child was conceived due to incest or forcible rape; (ii) legal proceedings for the adoption of the child are pending before a court; or (iii) the individual is currently receiving counseling from a licensed social agency to decide if the child should be released for adoption, and the counseling has not gone on for more than three months. BEM 255, pp. 3-4. The second type of good cause is cases in which there is danger of physical or emotional harm to the child or client. BEM 255, pp. 3-4.

When claiming good cause, the Department will request evidence of the good cause. BEM 255, p. 5. If written evidence does not exist, the Department will determine if the claim of good cause is credible. BEM 255, p. 5. The Department will base its credibility determination on available information, including client statement and/or collateral contacts with individuals who have direct knowledge of the client's situation. BEM 255, p. 5.

The Department testified that Petitioner's claim of good cause was denied because she failed to submit supporting documentation, such as medical records or a police report. Petitioner stated that she informed the Department that supporting documentation did not exist. Petitioner testified that her child was conceived when she went to a party, became intoxicated, and had sexual intercourse with another individual. Petitioner stated that she was not assaulted, and the intercourse was consensual. As a result, Petitioner did not notify law enforcement or her physician.

Per policy, the Department is required to make a credibility determination of the claim of good cause when written evidence does not exist. The Department erred when it failed to make a credibility determination in the absence of written evidence. However, the Department's error was harmless, as Petitioner does not qualify for a good cause exception. Petitioner stated the conception of the child was not a product of forcible rape. Therefore, Petitioner is not eligible for a good cause exception to the cooperation requirement. Thus, the Department acted in accordance with policy when it denied Petitioner's claim of good cause.

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 denied Petitioner's claim of good cause. 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-Wayne-49-Hearings
L. Brewer-Walraven
BSC4- Hearing Decisions
MAHS

Petitioner – Via First-Class Mail:

