



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

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Date Mailed: January 17, 2019
MAHS Docket No.: 18-012146
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Amanda M. T. Marler

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 January 14, 2019, from Detroit, Michigan. The Petitioner was self-represented. The Department of Health and Human Services (Department) was represented by Richelle Curney, Hearings Facilitator, and Patrick Dolton, Lead Worker for the Office of Child Support. Tayna Bankston from the Department also observed the hearing.

ISSUE

Did the Department properly reduce Petitioner's Food Assistance Program (FAP) benefit based upon noncompliance with the Office of Child Support (OCS)?

Did the Department properly deny Petitioner's Family Independence Program (FIP) case?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. In 2006, Petitioner provided the OCS with the name of a man whom she believed to be the father of her child; through DNA testing, this man was determined not to be the father of her child.
2. On May 6, 2015, the OCS sent Petitioner a First Customer Contact Letter to her address of record on [REDACTED] advising Petitioner to contact the OCS with

information about the non-custodial parent; Petitioner admits that she was not staying at the address regularly; but this was her mailing address.

3. On June 6, 2015, the OCS sent Petitioner a Final Customer Contact Letter to the same address again requesting information about the non-custodial parent.
4. On July 2, 2015, the OCS sent Petitioner a Notice of Non-Cooperation; and she was placed in non-cooperation status with the Department.
5. On January 6, 2017, the OCS received a call from Petitioner stating that she did not know the name, identity, or description of the father of her child.
6. On or about December 16, 2017, Petitioner submitted an Application for FIP benefits.
7. In January 2018, Petitioner again contacted OCS and told them that conception happened at a one-night stand and did not know the identity of her child's father.
8. On January 9, 2018, the Department issued a Notice of Case Action to Petitioner at the updated address of record on Fenkell Street notifying Petitioner that she was denied FIP benefits from December 16, 2017, ongoing, because she had exceeded the lifetime limit for receipt of the benefit, and that she was approved for FAP benefits effective January 1, 2018, in the amount of \$ [REDACTED] per month for a group size of one because she had not cooperated with child support requirements.
9. On November 19, 2018, the Department received Petitioner's request for hearing disputing the amount of her FAP benefit and also checked the box for a closure of a State Disability Assistance (SDA) (Cash) benefit.
10. Petitioner was not a recipient of SDA and intended to request a hearing about the FIP.

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).

State Disability Assistance (SDA)

The SDA program is established by the Social Welfare Act, MCL 400.1-.119b. The Department of Health and Human Services (formerly known as the Department of Human Services) administers the SDA program pursuant to 42 CFR 435, MCL 400.10 and Mich Admin Code, R 400.3151-.3180.

At the hearing, Petitioner confirmed that she did not want to request a hearing about the SDA cash program but was instead trying to request a hearing about the Family Independence Program (FIP) cash program. Therefore, Petitioner's request for hearing as it relates to the SDA program is DISMISSED.

Family Independence Program (FIP)

The 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.

All clients have the right to request a hearing. BAM 600 (October 2018), p. 2. The client must file the written hearing request within 90 days of the date of the written Notice of Case Action. BAM 600, pp. 2, 6. Requests will be granted for

- Denial of an application and/or supplemental payments.
- Reduction in the amount of program benefits or service.
- Suspension or termination of program benefits or service.
- Restrictions under which benefits or services are provided.
- Delay of any action beyond standards of promptness.
- For **FAP** and CDC, the current level of benefits or denial of expedited service.

BAM 600, p. 4.

In this case, Petitioner requested a hearing to dispute the denial of FIP benefits. However, her original application was in December 2017, and a decision was issued by the Department on January 9, 2018. Petitioner did not submit her written hearing request until November 2018; therefore, her request for hearing as it relates to the FIP is denied because the request was not received within 90 days of the Notice of Case Action. Clients cannot contest the current level of benefits for the FIP. Since clients can contest the current level of benefits for the FAP, an analysis of the issues related to her FAP benefits follows below.

Food Assistance Program (FAP)

The 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 was disqualified from the FAP due to noncooperation with the OCS as early as July 2015. Department policy requires the custodial parent of a child to comply with all requests for action or information needed to establish paternity and/or obtain child support on behalf of a child for whom they receive assistance, unless a

claim of good cause for not cooperating has been granted or is pending. BEM 255 (July 2018), p. 1. Failure to cooperate with the OCS, without good cause, results in disqualification of the individual who failed to cooperate. BEM 255, p. 2. Disqualification includes member removal, as well as denial or closure of program benefits, depending on the type of assistance. *Id.*

In a FAP case, the individual and her needs are removed from the FAP group for a minimum of one month; and the remaining eligible group members will receive benefits. BEM 255, p. 14. The purpose and reasoning for these policies is because parents have a responsibility to meet their children's needs by providing support and/or cooperating with the Department, including the OCS, the Friend of the Court (FOC), and the prosecuting attorney to establish paternity and/or obtain support from an absent parent. BEM 255, p. 1.

Cooperation is defined as 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.

Petitioner originally offered the name of a man whom she believed to be the father of her child in 2006. That man was determined not to be the father after genetic testing was completed. Petitioner was then given the opportunity to provide additional names or information about the father of her child but failed to respond and was placed in noncooperation. More than a year after being placed in noncooperation, Petitioner contacted OCS and told them that she did not have any additional information about the non-custodial parent. After another year, Petitioner called and told them that conception had occurred at a one-night stand; and she did not have any identifying information about the father of her child.

At the hearing, Petitioner disclosed that conception occurred at a one-night stand after meeting the man at a club, which is now closed, on her birthday, but that she could not provide a description or name of the man. OCS pointed out that the information related to the date of conception and the club were not previously disclosed during any conversation with OCS. While this may be true, the fact remains that Petitioner has been consistent in her assertion that she has no information related to the identity of the man including his name or a description. Even if she had met him at a club and it was still open or if she had disclosed that they met on her birthday, the Department would not be able to discern the identity of the man without additional information such as where he was employed, what he looked like, his approximate age, his name or nickname, phone number, address, or other identifier. She is only required to provide known information about the absent parent. Therefore, to continue to hold Petitioner in non-cooperation with OCS despite her continued assertion that she has no knowledge of the man is not in accordance with policy.

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 continued to hold Petitioner in non-cooperation status with OCS.

DECISION AND ORDER

Petitioner's request for hearing as it relates to the SDA program is DISMISSED.

Petitioner's request for hearing as it relates to the FIP is DISMISSED.

Accordingly, the Department's 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 OCS non-cooperation sanction;
2. Reinstate Petitioner as a qualified group member into the FAP case;
3. If Petitioner is otherwise eligible, issue supplements to Petitioner for FAP benefits not previously received; and,
4. Notify Petitioner in writing of its decision.

AMTM/jaf



Amanda M. T. Marler
Administrative Law Judge
for Robert Gordon, 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) 763-0155; 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

Department Representative

MDHHS-OCS-Hearings

DHHS

Tara Roland 82-17
MDHHS-Wayne-17-Hearings

Petitioner

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M Holden
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