



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED], MI [REDACTED]

Date Mailed: January 4, 2019
MAHS Docket No.: 18-012746
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Landis Lain

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon Petitioner's request for a hearing. After due notice, a telephone hearing was held. Petitioner [REDACTED] represented herself at the hearing. The Department of Health and Human Services (Department or Respondent) was represented by Julie Claffey, Hearings Facilitator and Renee Boucher, Child Support Specialist.

Respondent's Exhibit A pages 1-24 were admitted as evidence.

ISSUE

Did the Department properly place Petitioner into non-cooperation status and deny her application for Food Assistance Program (FAP) and Child Development and Care (CDC)?

FINDINGS OF FACT

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

- (1) Petitioner filed an application for FAP and CDC benefits.
- (2) On July 10, 2018, a child support case was created from a Department referral.
- (3) On July 15, 2018, the Office of Child support sent Petitioner a First Customer Contact Letter, requesting information about the father of Petitioner's child.

- (4) On July 26, 2018, the Office of Child Support sent Petitioner a final Customer Contact Letter, indicating that if Petitioner did not provide relevant information about her child's paternity OCS would find Petitioner non-compliant.
- (5) The Department received no response to the child support inquiry letters.
- (6) On August 3, 2018, the Office of Child Support (OCS) sent Petitioner a non-cooperation customer contact letter requesting information about the father of Petitioner's child.
- (7) On August 10, 2018, Petitioner called the OCS office and stated that the child's father was [REDACTED], he is around 40 years old and his sister's address is [REDACTED], MI. The sister's name is [REDACTED]
- (8) The Department attempted to verify the child's father but was unable to verify that [REDACTED] is an existing person; no history of any person named [REDACTED] ever lived at [REDACTED], MI.
- (9) On August 31, 2018, the Department sent Petitioner a Notice of Case Action denying Petitioner's application for CDC and decreasing Petitioner's FAP benefits, stating that Petitioner failed to cooperate with Child support requirements. Petitioner did not provide proof of information the local DHS office requested.
- (10) On October 24, 2018, Petitioner made a Claim of Good Cause indicating: "When he was here, I picked him up at a house in [REDACTED] at [REDACTED]. He was here with family. I don't know them at all. He and I slept together one time. When I dropped him back home the next day he said he was leaving when his time was up here. Then people changed their number and won't answer the door to me. They said he left. His name is Donald but his last name I don't know. I can't give of tell you anything if I don't know anything. I knew nothing about him. I need all my assistance. I am struggling bad. If I knew where he was trust me, I would tell you. I know he's the dad. He's the only black man I was with."
- (11) On November 27, 2018, the Department received a Request for Hearing to contest the negative action. Petitioner alleged that she had information about the child's father.

CONCLUSIONS OF LAW

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his or her claim for assistance has been denied. MAC R 400.903(1). Clients have the right to contest a department decision affecting eligibility

or benefit levels whenever it is believed that the decision is incorrect. The department will provide an administrative hearing to review the decision and determine the appropriateness of that decision. BAM 600.

The Food Assistance Program (FAP) (formerly known as the Food Stamp (FS) program) is established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations (CFR). The Department of Human Services (DHS or department) administers the FAP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3001-3015. Department policies are found in the Program Administrative Manual (BAM), the Program Eligibility Manual (BEM) and the Program Reference Manual (PRM).

The Child Development and Care program is established by Titles IVA, IVE and XX of the Social Security Act, the Child Care and Development Block Grant of 1990, and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The program is implemented by Title 45 of the Code of Federal Regulations, Parts 98 and 99. The Department of Human Services (DHS or department) provides services to adults and children pursuant to MCL 400.14(1) and MAC R 400.5001-5015. Department policies are contained in the Program Administrative Manual (BAM), the Program Eligibility Manual (BEM) and the Program Reference Manual (PRM).

Department philosophy indicates that families are strengthened when children's needs are met. Parents have the responsibility to meet their children's needs by providing support and/or cooperating with the department including the Office of Child Support, the Friend of the Court and the Prosecuting Attorney to establish paternity and/or obtain support from an absent parent. Clients 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 their claim of good cause for not cooperating has been granted or is pending. BEM, Item 255, p. 1.

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. Absent parents are required to support their children. Support includes all of the following:

- Child support.
- Medical support.
- Payment for medical care from any third party.

BEM 255, page 1

Failure to cooperate without good cause results in disqualification. Disqualification includes member removal, denial of program benefits and/or case closure depending upon the program. Exceptions to the cooperation requirement are allowed for all child support actions except failure to return court ordered support payments received after

the payment effective date. Grant good cause only if requiring cooperation/support action is against the child's best interest and there has been specific good cause reason. BEM, Item 255, pp. 1-2).

There are **only** two types of good cause allowed by Departmental policy:

- Cases in which establishing paternity/securing support would harm the child. Do not require cooperation/support action at any of the following circumstances:
 - Where the child was conceived due to incest or forcible rape
 - Where legal proceedings for the adoption of the child are pending before a court, and
 - The client is currently receiving counseling from a public or a licensed private social agency to decide if the child should be released for adoption and the counseling has not gone on for more than 3 months.
- Cases in which there is danger of physical or emotional harm to the child or client. Physical or emotional harm may result if the client or child has been subject to or in danger of:
 - Physical acts that result in, or threatened to result in physical injury
 - Sexual abuse
 - Sexual activity involving a dependent child
 - Being forced as a care taker relative of a dependent child to engage in non-consensual acts or activities.
 - Threats of or attempts at physical or sexual abuse
 - Mental abuse, and
 - Neglect or deprivation of medical care. BEM, Item 255, pp.2-3

This Administrative Law Judge finds that Petitioner does not have good cause for failure to provide information about her child's father. Even if the Petitioner does not remember who the man is, does not know the man's name or location and may have only engaged in sexual activity with him one time because of a one-night stand, lack of knowledge is not an established good cause reason in Department policy for failure to provide information. All recipients are required to cooperate to establish paternity and/or child support pursuant to 45 Code of Federal Regulations 264.30; Michigan IV-D

Child Support Manual Section 2.15, "Cooperation/Noncooperation/Good Cause", and Bridges Eligibility Manual (BEM) 255, Child Support.


Therefore, this Administrative Law Judge finds that the department has established by the necessary competent, material and substantial evidence on the record that it was acting in compliance with department policy when it reduced Petitioner's Food Assistance Program benefits and denied the application for Child Development and Care benefits because Petitioner did not provide information about the paternity of her child. This Administrative Law Judge finds Petitioner's testimony lacks credibility and even if true, does not establish good cause for failure to provide sufficient information to establish paternity of her child. The Department's decision to find Petitioner to be noncooperative with child support requirements is appropriate under the circumstances. Therefore, the Department's actions must be UPHOLD.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department has appropriately established on the record that it was acting in compliance with department policy when it reduced Petitioner's Food Assistance Program (FAP) benefits and denied Petitioner's application for Child Development and Care (CDC) based upon the determination that Petitioner did not provide good cause for her failure to provide information about the paternity of her child and based upon the fact that she did not she did not provide sufficient information about the paternity of her child.

Accordingly, the Departments decision is **AFFIRMED**.

LL/hb



Landis Lain
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) 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

DHHS

Amber Gibson
5303 South Cedar
PO BOX 30088
Lansing, MI 48911

DHHS

Julie Claffey
725 Richard Drive
Harrison, MI 48625

Authorized Hearing Rep.

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

Clare County, DHHS

M. Holden via electronic mail

D. Sweeney via electronic mail

L. Brewer-Walraven via electronic mail

Petitioner

[REDACTED]
MI [REDACTED]