



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: January 18, 2019
MAHS Docket No.: 18-012883
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Jacquelyn A. McClinton

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 10, 2019, from Detroit, Michigan. Petitioner represented herself. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearing Facilitator and [REDACTED], Lead Specialist with the Office of Child Support (OCS).

ISSUE

Did the Department properly place Petitioner in noncooperation status due to her failure to cooperate with the OCS?

Did the Department properly close Petitioner's Food Assistance Program (FAP) benefits effective October 1, 2018?

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 a recipient of FAP benefits.
2. On [REDACTED], Petitioner gave birth to her son.
3. The OCS received a referral to determine the identity of the father of Petitioner's son.
4. On [REDACTED] the OCS sent correspondence to Petitioner at the incorrect address requesting information relating to the paternity of her son.

5. Petitioner failed to respond.
6. On August 10, 2018, the OCS sent correspondence to Petitioner at the incorrect address requesting information relating to the paternity of her son.
7. Petitioner failed to respond.
8. On August 19, 2018, the OCS sent a Noncooperation Notice to Petitioner which informed her that she was considered to be noncooperative with the child support program.
9. On September 11, 2018, Petitioner submitted an application for FAP benefits.
10. On September 11, 2018, the Department sent Petitioner a Verification Checklist (VCL) requesting proofs relating to rent expense, checking account, and self-employment.
11. The proofs were due on or before September 21, 2018.
12. On September 25, 2018, Petitioner submitted the requested information.
13. On November 1, 2018, the Department sent Petitioner a Notice of Case Action which notified Petitioner that her FAP benefits would close effective October 1, 2018.
14. On November 30, 2018, Petitioner filed 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, the Department testified that it closed Petitioner's FAP benefits because she failed to return the requested verifications by the due date. Although Petitioner did not submit the requested information prior to the due date, she submitted the information within 12 days of the due date and more than 30 days prior to the date the

Notice of Case Action was issued. Under Department policy, a pended negative action occurs when a negative action requires timely notice based on the eligibility rules in this item. Timely notice means that the action taken by the department is effective at least 12 calendar days following the date of the department's action. BAM 220 (January 2017), p. 12. Further, under Department policy, if a client meets the requirement prior to the effective date, the Department is required to delete the negative action. See Bam 220 (June 2016), pg. 13. As such, the closure of Petitioner's FAP benefits was improper.

The Department also indicated that notwithstanding the closure, Petitioner's benefits would have been reduced because she failed to cooperate with the OCS. Under Department policy, 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. BEM 255 (April 2018), p. 1. Further, cooperation is a condition of eligibility. The following individuals who receive assistance on behalf of a child are required to cooperate in establishing paternity and obtaining support, unless good cause has been granted or is pending:

- Grantee (head of household) and spouse.
- Specified relative/individual acting as a parent and spouse.
- Parent of the child for whom paternity and/or support action is required.

Cooperation is required in all phases of the process to establish paternity and obtain support. It includes **all** of the following:

- Contacting the support specialist when requested.
- Providing all known information about the absent parent.
- Appearing at the office of the prosecuting attorney when requested.
- 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.

The correspondence sent to Petitioner from the OCS was mailed to the incorrect address. The OCS received a referral as result of Petitioner having given birth to her son on [REDACTED]. Petitioner gave her correct [REDACTED] address to the hospital. Further, the Department testified that it has had the [REDACTED] address on record since approximately 2015. As such, it is unclear where the [REDACTED] address was derived from and provided to the OCS.

Petitioner testified that she has never received any correspondence from the OCS. Given that the correspondence from the OCS was mailed to the incorrect address and given that Petitioner never received the correspondence, it is found that Petitioner was improperly placed in noncooperation status which would have caused a reduction in benefits if her FAP case had not been improperly closed.

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 closed Petitioner's FAP benefits effective October 1, 2018. Further, 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 determined that Petitioner failed to cooperate with the OCS.

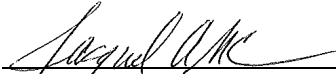
DECISION AND ORDER

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 noncooperation status from Petitioner's FAP case;
2. Reinstate and redetermine Petitioner's eligibility for FAP benefits effective October 1, 2018, ongoing;
3. If Petitioner was eligible for supplements, issue FAP supplements Petitioner was eligible to receive but did not effective October 1, 2018; and
4. Notify Petitioner in writing of its decision.

JAM/tlf



Jacquelyn A. McClinton
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

Via Email:

[REDACTED]

Petitioner – Via First-Class Mail:

[REDACTED]