



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: April 11, 2019
MAHS Docket No.: 19-001880
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 (ALJ) 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 8, 2019, from Ypsilanti, Michigan. Petitioner was represented by Sarah Munro. The Department of Health and Human Services (Department) was represented by Kyle Bruckner. Present to testify on behalf of the Department was Evelyn Feaster-Aldridge, Eligibility Specialist; Candace Baker, Family Independence Manager and Vanessa Ali, Lead Child Support Specialist

ISSUE

Did the Department properly deny Petitioner's application for State Emergency Relief (SER) 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 March 14, 2016, the Department sent Petitioner a Noncooperation Notice (Exhibit B, p. 11).
2. On December 19, 2018, Petitioner submitted an application for energy-related SER benefits (Exhibit A, pp. 9-11).
3. On December 19, 2018, the Department sent Petitioner a State Emergency Relief Decision Notice informing her that her SER application was denied for her failure to cooperate with OCS.

4. On February 25, 2019, 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).

At the hearing, both the Department's representative and Petitioner's representative requested the admission of documents, to which the other party objected. The documents that were offered as proposed exhibits were not submitted within the time limits set forth by the Michigan Administrative Hearing System (MAHS) Administrative Hearing Rules. Hearing Rule 287 (1) states:

A copy of all evidence to be offered in support of a party's contentions shall be filed with the tribunal and served upon the opposing party or parties not less than 21 days before the date of the scheduled hearing, unless otherwise provided by the tribunal. Failure to comply with this sub rule may result in the exclusion of the valuation disclosure or other written evidence at the time of the hearing because the opposing party or parties may have been denied the opportunity to adequately consider and evaluate the valuation disclosure or other written evidence before the date of the scheduled hearing. Mich Admin Code, R 792.10287(1).

Although neither party submitted their proposed exhibits timely, Hearing Rule 287 states that if the exhibits are not submitted timely, they *may* be excluded. Meaning, the undersigned ALJ has discretion to admit or exclude the proposed exhibits. Both parties were present at the hearing and had the opportunity to ask questions of the opposing witnesses regarding the evidence. Therefore, all proposed documents will be entered. Petitioner's proposed exhibit is entered collectively as Exhibit 1. The Department's exhibit is entered collectively as Exhibit B.

The State Emergency Relief (SER) program is established by the Social Welfare Act, MCL 400.1-.119b. The SER program is administered by the Department (formerly known as the Department of Human Services) pursuant to MCL 400.10 and Mich Admin Code, R 400.7001-.7049.

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 (April 2018), 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. Groups that are non-cooperative with OCS are ineligible for SER. ERM 203 (June 2013), p. 2.

The Department testified that Petitioner initially contacted OCS in 2006 related to the paternity of her child that was born in [REDACTED]. Petitioner stated she went to a party with work friends at a house of a man that was in a relationship with her sister. Petitioner engaged in sexual intercourse at the party with a man that was not her sister's partner. Petitioner did not know the Putative Father (PF). Petitioner stated that she did not have contact with her sister, nor the coworkers with which she attended the party. In 2007, Petitioner again spoke with OCS and stated she received a phone number from her sister of a man who could be the PF. She stated his name was [REDACTED] and that he never answered his phone when she called. Petitioner contacted OCS in November 2013 and stated the PF's name was [REDACTED]. In January 2015, Petitioner stated she could not recall any information regarding the PF due to a medical condition and then informed OCS that she had a one-night stand with a man named [REDACTED]. Petitioner stated [REDACTED] owned a business on [REDACTED] in [REDACTED] Michigan. OCS was unable to locate any individual by that description. During the period of 2013 to 2016, Petitioner was placed into cooperation status on two occasions (Exhibit A, p. 12).

In 2016, the Department updated Petitioner's case and the cooperation status was removed, as Petitioner had still not provided enough information to identify the child's father. Petitioner was sent a First Customer Contact Letter from OCS on April 25, 2016, requesting that she contact their office within 10 days (Exhibit B, pp. 5-6). OCS received no response from the Petitioner. OCS sent Petitioner's daughter a Final Customer Contact Letter on May 5, 2016, again requesting that she contact their office within 10 days (Exhibit B, pp.8-9). Petitioner failed to comply with the request, and she was issued a Noncooperation Notice on May 14, 2016 (Exhibit B, p. 11).

After Petitioner submitted the SER application on December 19, 2018, Petitioner's Department worker advised her to contact OCS, as she was still in noncooperation status. On December 19, 2018, Petitioner's application for SER benefits was denied for her failure to cooperate with OCS. On December 20, 2018, Petitioner notified OCS that she did not have any information regarding the PF. Petitioner stated she does not communicate with the family and friends that might know PF's identity. On December 28, 2018, Petitioner contacted OCS and stated that she has a medical condition that affects her memory.

The Department testified that Petitioner has been in noncooperation status since May 2016. The Department stated that Petitioner remained in noncooperation status due to the number inconsistencies in her story and that she has failed to provide the Department with sufficient information to identify the father of her child.

Petitioner testified that she gave birth to her child in [REDACTED]. Petitioner did not make any attempts to determine the paternity of her child until 2006, when directed to do so

by the Department. Petitioner stated all of the information she provided to the Department was relayed to her by other individuals. Petitioner testified that she does not know the identity of the father and does not communicate with any individuals that may have information regarding his identity.

Department policy does not require that a client provide enough information to be able to identify the absent parent to be considered cooperative. A client just has to provide all *known* information. A significant period of time passed between the conception of Petitioner's child and the time she was directed to obtain information regarding the PF. Although the information provided by Petitioner appears inconsistent, Petitioner gave credible testimony that the details that she provided to the Department were relayed to her by other individuals as possible leads to the father of her child and that she was not reporting them as known facts regarding the PF. Petitioner's testimony that she provided all known information to the Department regarding the PF was credible. Therefore, the Department did not act in accordance with policy when it continued to maintain Petitioner in noncooperation status. Thus, the Department did not act in accordance with policy when it denied Petitioner's SER application.

DECISION AND ORDER

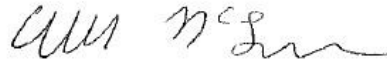
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it continued to maintain Petitioner in noncooperation status and denied her SER application.

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. Place Petitioner into cooperation status;
2. Reinstate and reprocess Petitioner's December 19, 2018 SER application;
3. If Petitioner is eligible for SER benefits, issue payments in accordance with Department policy; and

4. Notify Petitioner of its decision in writing.



EM/jaf

Ellen McLemore
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

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