



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: July 26, 2019
MOAHR Docket No.: 19-005287
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Zainab A. Baydoun

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 three-way telephone hearing was held on June 26, 2019, from Detroit, Michigan. Petitioner appeared for the hearing and represented herself. The Department of Health and Human Services (Department) was represented by [REDACTED] Worker. [REDACTED], Lead Support Specialist represented the Office of Child Support (OCS).

ISSUE

Did the Department properly deny Petitioner's application for Child Development and Care (CDC) benefits?

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 January 31, 2019, the OCS sent Petitioner a First Customer Contact Letter instructing her to contact OCS and provide information on the absent parent of her child. (Exhibit A, pp. 19-20)
2. On February 10, 2019, Petitioner responded to the First Customer Contact Letter by submitting a DHS 842 form to the OCS which included a basic physical description but failed to identify the father by name. The OCS determined that the form was incomplete, as it did not contain sufficient information.

3. On February 10, 2019, the OCS sent Petitioner a Final Customer Contact Letter instructing her to contact OCS and provide information on the father of her child. (Exhibit A, pp. 23 – 24)
4. In response to the Final Customer Contact Letter, Petitioner contacted OCS and again provided a physical description and an explanation that she did not recall any additional information, as her child was conceived after a one night stand.
5. On February 12, 2019, the OCS sent Petitioner a Noncooperation Notice advising her that she was found to be in noncooperation with child support requirements. (Exhibit A, p. 27)
6. On February 12, 2019, the Department placed Petitioner in noncooperation with child support requirements. (Exhibit A, p.13)
7. On April 16, 2019, Petitioner submitted an application for CDC benefits. (Exhibit A, pp. 8 – 12)
8. On an unverified date, the Department sent Petitioner a verification checklist instructing her to contact the OCS to comply with child support requirements.
9. On or around April 17, 2019, Petitioner contacted the OCS and reported that she met the father at a bar and only had a possible first name but no other identifying information.
10. The OCS determined that the information provided was insufficient and thus, Petitioner continued to be non-cooperative with child support requirements.
11. On May 2, 2019, the Department sent Petitioner a Notice of Case Action advising her that the CDC application was denied on the basis that she failed to cooperate with child support requirements. (Exhibit A, pp. 4 – 7)
12. On or around May 13, 2019, Petitioner requested a hearing disputing the Department's denial of her CDC application.

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 Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, 42 USC 601-619, 670-679c, and 1397-1397m-5; the Child Care and Development Block Grant of 1990, PL 101-508, 42 USC 9858 to 9858q; and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-

193. The program is implemented by 45 CFR 98.1-99.33. The Department administers the program pursuant to MCL 400.10 and provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001-.5020.

In this case, the Department testified that Petitioner's CDC application was denied because she was found to be in noncooperation with child support requirements by the OCS.

The custodial parents 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 and payment for medical care from any third party. BEM 255 (April 2019), pp. 1, 9. A client's cooperation with paternity and obtaining child support is a condition of CDC eligibility. BEM 255, pp. 1, 9-13. Cooperation is required in all phases of the process to establish paternity and obtain support and includes contacting the support specialist when requested and providing all known information about the absent parent, among other things. BEM 255, p 9. At CDC application, the client has 10 days to cooperate with the OCS. The Department informs the client to contact OCS in the verification checklist (VCL). The disqualification is imposed if the client fails to cooperate on or before the VCL due date when the factors listed in BEM 255 at pp. 12-13 are true. See BEM 255, pp.8-13. For CDC cases, a failure to cooperate without good cause with the OCS requirements will result in group ineligibility for CDC. The Department will close or deny the CDC case when a child support non-cooperation record exists and there is no corresponding comply date. BEM 255, pp. 13-14.

At the hearing, the OCS representative testified that although Petitioner responded to the First Customer Contact Letter, the Final Customer Contact Letter, and the VCL by contacting OCS and providing some information on the absent father of her child such as a physical description, because Petitioner did not provide sufficient identifying information, it determined that she continued to be in noncooperation with child support requirements, as OCS could not locate the alleged father. The Department subsequently sent Petitioner the Notice of Case Action advising her that the CDC application was denied based on her noncooperation with child support requirements.

Petitioner testified that she provided the OCS with all of the identifying information that she had available to her regarding the father of her child. Petitioner provided the father's first name (as she believed it to be) and physical description. Petitioner testified that she met him at a bar in Grand Rapids, that she drove the two of them to her house, that her child was conceived as a result of a one-night stand, and that she was intoxicated. Petitioner testified that she was planning on exchanging phone numbers with him the next morning, however, by the time she woke up he was gone. Petitioner testified that she attempted to locate him via [REDACTED] and [REDACTED] using his first name and age range but was unable to obtain any additional information. Petitioner asserted that she

has not had any contact with him since that time and does not know anyone else who may know him or his whereabouts.

Under the facts presented, the Department and the OCS have failed to establish that Petitioner had additional information regarding the father's identity that she failed to disclose, thereby, making her ineligible for CDC benefits.

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 determined that Petitioner was in noncooperation with child support requirements and denied her CDC application.

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 child support noncooperation sanction/disqualification imposed on Petitioner's case;
2. Register and process Petitioner's April 17, 2019, CDC application to determine her eligibility for CDC benefits from the application date, ongoing;
3. Supplement Petitioner and/or her CDC provider for any CDC benefits that she was eligible to receive but did not from the application date, ongoing; and
4. Notify Petitioner in writing of its decision.

ZB/tlf


Zainab A. Baydoun

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 Office of Administrative Hearings and Rules (MOAHR).

A party may request a rehearing or reconsideration of this Order if the request is received by MOAHR 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. MOAHR will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MOAHR. If submitted by fax, the written request must be faxed to (517) 763-0155; Attention: MOAHR Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Office of Administrative Hearings and Rules
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

Via Email:

[REDACTED]

Petitioner – Via First-Class Mail:

[REDACTED]