



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

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Date Mailed: July 1, 2019
MOAHR Docket No.: 19-005365
Agency No.: ██████████
Petitioner: ██████████

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 June 27, 2019, from Detroit, Michigan. The Petitioner was self-represented. The Department of Health and Human Services (Department) was represented by Brenda Drewnicki, Hearings Facilitator, and the Department's witness from the Office of Child Support (OCS) Anissa Ali, Lead Child Support Specialist.

ISSUE

Did the Department properly place Petitioner in noncooperation with child support requirements and close her Child Development and Care (CDC) 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. Petitioner's child from an absent parent was born in ██████████ 2015.
2. Petitioner had four men tested as the possible father of her child in January 2016, May 2017, December 2017, October 2018, and February 2019; all men were excluded by DNA testing as the father of her child.
3. On April 1, 2019, the OCS issued a First Customer Contact Letter to Petitioner requesting that she complete the Child Support Response form within ten days.
4. On April 11, 2019, the OCS issued a Final Customer Contact Letter to Petitioner requesting that she complete the Child Support Response form by April 19, 2019.

5. On April 18, 2019, the OCS received Petitioner's completed Child Support Response Form indicating that she did not know the identity of her child's father.
6. On April 20, 2019, the OCS issued a Noncooperation Notice to Petitioner indicating that she had not responded to the First Customer Contact letter or the Final Customer Contact letter by April 20, 2019 and had failed to provide OCS with identifying information about the absent parent.
7. On April 22, 2019, the Department received notification that Petitioner was placed in noncooperation status with OCS and issued a Notice of Case Action to Petitioner informing her that her CDC case would close for all of her children effective May 12, 2019 because of the noncooperation with OCS.
8. On May 6, 2019, Petitioner contacted OCS and indicated that she met ■, the father of her child's nickname, online through an app called Kik at a house in the area of ■ and ■ provided a physical description, but indicated she never spoke to him again.
9. On May 8, 2019, Petitioner contacted OCS twice and indicated that she had a one-night stand and had no additional information about the absent parent.
10. On May 16, 2019, the Department received Petitioner's request for hearing disputing the closure of her CDC case and placement in noncooperation status with OCS.
11. On May 18, 2019, Petitioner contacted OCS and reminded OCS that four other men have been excluded and she has no additional information on the remaining potential father.
12. On May 28, 2019, a prehearing conference was held, and Petitioner reiterated the same information previously provided to OCS.

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, Petitioner disputes the closure of CDC benefits for her children and the determination of noncooperation with the OCS. In CDC cases, the custodial parent or alternative caretaker of a child 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 2019), p. 1. Failure to cooperate without good cause results in group ineligibility for CDC benefits if the noncooperation involves a child for whom benefits were requested or received. BEM 255, pp. 13-14. 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. BEM 255, p. 9. Good cause includes situations where establishing paternity or securing support would harm the child or where there is a danger of physical or emotional harm to the client or child. BEM 255, pp. 3-4.

Petitioner began her efforts to locate the absent father as early as January 2016 when the first man was excluded as the father of her child. She has had three additional men tested. The only remaining person who could be the potential father is someone that Petitioner has limited information about. In each conversation with OCS, she has been consistent that sex with this man occurred somewhere in the area of [REDACTED] and [REDACTED] [REDACTED] that she does not know if the home belonged to the man, that she has been unable to find the home again, that they communicated through an app called Kik, and she does not have his phone number. OCS elected to place Petitioner in noncooperation status because the information provided by Petitioner is insufficient to enable OCS to locate the absent parent. However, simply because there is insufficient information to locate the absent parent does not mean that Petitioner has any additional information to provide. She has had four men excluded from consideration and provided all known information about the last remaining potential father. She has attempted to locate the house where the sex occurred, but is unable to find it because it happened approximately five years ago. At this point, the Department and OCS have not established any basis to show that Petitioner is withholding information to enable OCS to locate the absent parent. A person cannot provide information that the person does not have. Therefore, Petitioner's placement into noncooperation status was not in accordance with policy.

Since Petitioner should not have been placed in noncooperation status, her CDC case should not have been closed. The Department erred in closing Petitioner's CDC case for each child effective May 12, 2019.

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 Petitioner's CDC case was closed for noncooperation with 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 cases;
2. Reinstate Petitioner's CDC case effective May 12, 2019; and,
3. If otherwise eligible, issue supplements to Petitioner for benefits not previously received.



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 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

DHHS

Vivian Worden
MDHHS-Macomb-36-Hearings

Petitioner

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