



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: August 6, 2019  
MOAHR Docket No.: 19-006444  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**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 July 31, 2019, from Detroit, Michigan. The Petitioner was self-represented. The Department of Health and Human Services (Department) was represented by [REDACTED] Hearings Facilitator, and had as a witness [REDACTED] [REDACTED] Lead Child Support Specialist with the Office of Child Support (OCS).

### **ISSUE**

Did the Department properly deny Petitioner's State Emergency Relief (SER) application based upon noncompliance with OCS?

Is the Department's continued disqualification of Petitioner from her Food Assistance Program (FAP) group due to noncompliance with OCS in accordance with policy?

### **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 gave birth to the child whose absent parent is in question in [REDACTED] 2007.
2. The OCS became active with the case in January 2010.

3. Since 2010, Petitioner has been in and out of compliance with child support requirements.
4. On October 25, 2017, Petitioner was placed in noncompliance with OCS.
5. On October 27, 2017, the Department issued a Notice of Case Action to Petitioner informing her that she was disqualified from the FAP due to noncompliance with OCS.
6. On December 14, 2017, a hearing was held in Michigan Administrative Hearing System (MAHS) (now known as Michigan Office of Administrative Hearings and Rules (MOAHR) docket number 17-014945 before an Administrative Law Judge.
7. On December 18, 2017, a decision was issued in MAHS docket number 17-014945 affirming the Department's determination of noncompliance with OCS and disqualification from the FAP group.
8. Between the October 2017 hearing and June 2019, Petitioner contacted OCS five more times to try to ascertain the identity of her child's father, the last contact taking place on June 21, 2019.
9. On May 16, 2019, the Department issued a State Emergency Relief Decision Notice informing her that her request for assistance had been denied due to noncompliance with child support requirements.
10. On May 30, 2019, the Department issued a Notice of Case Action to Petitioner informing her that her FAP group, which did not include her, was approved for FAP benefits effective June 1, 2019 in the amount of [REDACTED] for a group size of five.
11. On June 3, 2019, the Department issued another State Emergency Relief Decision Notice informing Petitioner that her application for SER had been denied due to noncompliance with child support requirements.
12. On June 13, 2019, the Department received Petitioner's request for hearing disputing the determination that she was in noncompliance with OCS specifically as it relates to her SER applications and FAP benefits.
13. On June 21, 2019, the Department issued another Verification Checklist (VCL) to Petitioner essentially to remind Petitioner to contact OCS to establish paternity for her child as this was not the first VCL for this issue.

### **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.

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.

In this case, Petitioner disputes the Department's determination of noncompliance with child support requirements and her subsequent disqualification from the FAP and denial of her SER application. Both the FAP and SER program require that custodial parents 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 noncompliance is granted or pending. BEM 255 (April 2019), p. 1; ERM 203 (October 2018), p. 2. The disqualification from FAP and the ineligibility for SER continue until the group complies with requests for action or information to establish paternity. BEM 255, p. 2; ERM 203, p. 2. 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. 10.

Petitioner's child, whose father is in question, is now ■ years old. During the course of her child's life, Petitioner has been in and out of compliance with child support requirements. In 2017, she was placed in noncompliance with OCS because Petitioner did not have enough identifying information related to the identity of her child's father. After an administrative hearing, the determination of noncompliance with OCS was affirmed because of the numerous inconsistent statements regarding the identity of the child's father. Since the 2017 hearing, Petitioner has been in contact with OCS on at least five separate occasions trying to be placed in compliance status. However, she has no additional information to provide. She has reiterated all information that was previously provided and admits that she has started to just supply names to the OCS to try to be in compliance even though she knows that those individuals are not the father of the child related to this case. In addition, Petitioner has reached out to the friend who hosted the party where she met the man in question to try to determine his identity. The person who hosted the party now lives out of state so she cannot revisit the home to try to determine his identity. She has also reached out to another friend who may have known him. Finally, she has searched through ■■■■■ to try to identify the individual. Her efforts have not availed her of any additional information.

In order to comply with child support requirements, Petitioner is required to provide all known information and take actions to identify the father. Petitioner has been attempting to identify the father of her child for ■ years. She has spoken with friends and checked Facebook, she has provided multiple names including legal and street names to the Department, but she has no further information. Petitioner cannot be expected to provide information that she does not have. The OCS's inability to identify the absent parent is not the fault of Petitioner if she has provided all known information and done her due diligence. No evidence was presented that Petitioner was withholding information. No evidence was presented that Petitioner left a stone unturned. Therefore, the Department and OCS's decision to continue to hold Petitioner in noncompliance with child support requirements is not in accordance with Department policy. Since Petitioner is in compliance, the disqualification from the FAP is not in compliance with policy nor is the denial of Petitioner's SER applications.

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 placed Petitioner in noncompliance with OCS, disqualified her from the FAP, and denied her SER applications.

### **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 OCS noncompliance sanctions effective October 25, 2017;
2. Redetermine Petitioner's FAP eligibility;
3. If otherwise eligible, issue FAP supplements to Petitioner for benefits not previously received;
4. Reinstate and reprocess Petitioner's SER application associated with the May 16, 2019 State Emergency Relief Decision Notice;
5. If Petitioner is otherwise eligible for SER benefits, issue SER supplements to Petitioner or on her behalf for benefits not previously received;
6. If Petitioner is not eligible for SER benefits based upon the application associated with the May 16, 2019 Decision Notice, reinstate and reprocess the application associated with the State Emergency Relief Decision Notice dated June 3, 2019;

7. If Petitioner is otherwise eligible for SER benefits, issue SER supplements to Petitioner or on her behalf for benefits not previously received; and,
8. Notify Petitioner in writing of its decisions.



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**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

**Department Representative**

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

**DHHS**

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

**Petitioner**

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

**CC:** [REDACTED]  
[REDACTED]