



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED], MI [REDACTED]

Date Mailed: August 12, 2019
MOAHR Docket No.: 19-007046
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Landis Lain

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 August 8, 2019, from Lansing, Michigan. The Petitioner was represented by Petitioner, [REDACTED]. The Department of Health and Human Services (Department) was represented by Tamara Jackson, Hearings Facilitator, and Anissa Ali, Lead Child Support Specialist.

Respondent's Exhibit A pages 1-24 were admitted as evidence.

ISSUE

Did the Department properly cancel Petitioner's Food Assistance Program (FAP) benefits based upon child support non-cooperation?

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 Food Assistance Program (FAP) benefit recipient for herself and one child.
- (2) On August 16, 2018, the Department sent Petitioner a first customer contact letter, requesting that she provide information within ten days of the paternal parent of her second child.
- (3) On August 26, 2018, the Office of Child Support (OCS) sent Petitioner a final Customer Contact Letter, indicating that if Petitioner did not provide

relevant information about her child's paternity OCS would find Petitioner non-compliant.

- (4) The Department received no response to the child support inquiry letters which Petitioner claims she did not receive.
- (5) On September 4, 2018, Petitioner was placed into non-cooperation status because she failed to provide the Office of Child Support with identifying information about the absent parent.
- (6) On October 11, 2018, Petitioner contacted the Office of Child Support and reported meeting Chris, a white male, blue eyes, 5'10", weight unknown, at Casaden's Bar in Metamora, Michigan. She claims he told her that he was an electrician for one of the Carolinas.
- (7) On September 5, 2018, the Department sent Petitioner a Notice of Case Action decreasing Petitioner's FAP benefits, stating that Petitioner failed to cooperate with child support requirements. Petitioner did not provide proof of paternity or information the local DHHS office requested.
- (8) On June 26, 2019, the Department received a Request for Hearing to contest the amount of Food Assistance Program benefits that she receives.
- (9) Petitioner alleged that she had no further information about the child's father.
- (10) On July 12, 2019, the Michigan Office of Administrative Hearings and Rules received a copy of the Hearing Summary and attached documents.

CONCLUSIONS OF LAW

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his or her claim for assistance has been denied. MAC R 400.903(1). Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The department will provide an administrative hearing to review the decision and determine the appropriateness of that decision. BAM 600.

The Food Assistance Program (FAP) (formerly known as the Food Stamp (FS) program) is established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations (CFR). The Department of Human Services (DHS or department) administers the FAP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3001-

3015. Department policies are found in the Program Administrative Manual (BAM), the Program Eligibility Manual (BEM) and the Program Reference Manual (PRM).

Department philosophy indicates that families are strengthened when children's needs are met. Parents have the responsibility to meet their children's needs by providing support and/or cooperating with the department including the Office of Child Support, the Friend of the Court and the Prosecuting Attorney to establish paternity and/or obtain support from an absent parent. Clients 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 their claim of good cause for not cooperating has been granted or is pending. BEM, Item 255, p. 1.

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. Absent parents are required to support their children. Support includes all the following:

- Child support.
- Medical support.
- Payment for medical care from any third party. BEM 255, page 1

Failure to cooperate without good cause results in disqualification. Disqualification includes member removal, denial of program benefits and/or case closure depending upon the program. Exceptions to the cooperation requirement are allowed for all child support actions except failure to return court ordered support payments received after the payment effective date. Grant good cause only if requiring cooperation/support action is against the child's best interest and there has been specific good cause reason. BEM, Item 255, pp. 1-2).

There are **only** two types of good cause allowed by Departmental policy:

- Cases in which establishing paternity/securing support would harm the child. Do not require cooperation/support action at any of the following circumstances:
 - Where the child was conceived due to incest or forcible rape
 - Where legal proceedings for the adoption of the child are pending before a court, and
 - The client is currently receiving counseling from a public or a licensed private social agency to decide if the child should be released for adoption and the counseling has not gone on for more than 3 months.

- Cases in which there is danger of physical or emotional harm to the child or client. Physical or emotional harm may result if the client or child has been subject to or in danger of:
 - Physical acts that result in, or threatened to result in physical injury
 - Sexual abuse
 - Sexual activity involving a dependent child
 - Being forced as a caretaker relative of a dependent child to engage in non-consensual acts or activities.
 - Threats of or attempts at physical or sexual abuse
 - Mental abuse, and
 - Neglect or deprivation of medical care. BEM, Item 255, pp.2-3

This Administrative Law Judge finds that Petitioner does not have good cause for failure to provide information about her child's father. Even if what Petitioner states is true, in that she does not remember who the man is, does not know the man's name or location and may have only engaged in sexual activity with him one time because of a one-night stand, lack of knowledge is not an established good cause reason in Department policy for failure to provide information. All recipients are required to cooperate to establish paternity and/or child support pursuant to 45 Code of Federal Regulations 264.30; Michigan IV-D Child Support Manual Section 2.15, "Cooperation/Noncooperation/Good Cause", and Bridges Eligibility Manual (BEM) 255, Child Support.

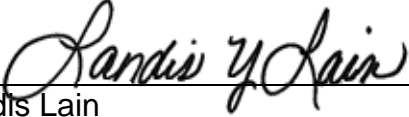
Therefore, this Administrative Law Judge finds that the Department has established by the necessary competent, material and substantial evidence on the record that it was acting in compliance with department policy when it reduced Petitioner's Food Assistance Program because Petitioner did not provide sufficient information about the paternity of her child. This Administrative Law Judge finds Petitioner's testimony lacks credibility and even if true, does not establish good cause for failure to provide sufficient information to establish paternity of her child. The Department's decision to find Petitioner to be noncompliant is appropriate under the circumstances. Therefore, the Department's actions must be UPHELD.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department has appropriately established on the record that it was acting in compliance with department policy when it reduced Petitioner's FAP benefits based upon the determination that Petitioner did not provide good cause for her failure to provide information about the paternity of her child and based upon the fact that she did not provide sufficient information about the paternity of her child.

Accordingly, the Department's decision is AFFIRMED.

LL/nr



Landis Lain
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

Brenda Buhl
1505 Suncrest Drive
Lapeer, MI 48846

Lapeer County, DHHS

BSC2 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

Department Representative

Office of Child Support (OCS)-MDHHS
201 N Washington Square
Lansing, MI 48933

Petitioner

[REDACTED]
MI [REDACTED]