



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], MI [REDACTED]

Date Mailed: September 13, 2019  
MOAHR Docket No.: 19-008908  
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 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 September 13, 2019, from Detroit, Michigan. Petitioner was present and represented herself. The Department of Health and Human Services (Department) was represented by Valarie Foley, Hearing Facilitator and Anissa Ali, Lead Child Support Specialist with the Office of Child Support (OCS).

### **ISSUE**

Did the Department properly decrease Petitioner's Food Assistance Program (FAP) 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. Petitioner was an ongoing FAP recipient.
2. On November 19, 2019, the Department sent Petitioner a Noncooperation Notice (Exhibit A, p. 15).
3. On June 28, 2019, the Department sent Petitioner a Notice of Case Action (NOCA) informing her that her FAP benefit case was closing effective August 1, 2019, ongoing (Exhibit A, pp. 18-23).
4. On August 6, 2019, Petitioner submitted a request for hearing disputing the Department's actions.

5. On August 13, 2019, the Department sent Petitioner a NOCA informing her that she was approved for FAP benefits effective August 1, 2019, ongoing, but that she was disqualified from the FAP group due to her noncooperation status with OCS (Exhibit A, pp. 26-30).

### **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.

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 (January 2017), 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.

In this case, Petitioner was an ongoing FAP recipient. The Department testified that it received notification from OCS that Petitioner was placed in noncooperation status. The Department stated that Petitioner's FAP benefit case was closed in error due to the noncooperation status. Upon learning of the error, the Department reinstated Petitioner's FAP benefit case but Petitioner was disqualified from the FAP group due to her noncooperation with OCS.

Petitioner's was sent a First Customer Contact Letter from OCS on November 1, 2018, requesting that she contact their office within 10 days (Exhibit A, pp. 9-10). OCS received no response from Petitioner. OCS sent Petitioner a Final Customer Contact Letter on November 11, 2018, again requesting that she contact their office within 10 days (Exhibit A, pp. 12-13). Petitioner failed to comply with the request, and she was issued a Noncooperation Notice on November 19, 2018 (Exhibit A, p. 15).

OCS testified that Petitioner contacted their office on December 18, 2018. Petitioner stated that the father of her other child had been excluded as the father of the child in question. Petitioner stated that the name of the father of the child in question was Eric Patterson. Petitioner stated that his last known residence was in Cleveland, Ohio.

Petitioner was asked by OCS to review known sex offenders in the Cleveland, Ohio area that matched the description provided. Petitioner stated she reviewed the information but none of the individuals were the putative father. Petitioner was unable to provide any additional details to locate Eric Patterson. As a result, OCS determined Petitioner was noncooperative.

Petitioner testified that her child was born in October 2005. Petitioner stated that she has not had any contact with the putative father since prior to the birth of the child. Petitioner testified that when she notified the putative father of the pregnancy, he ceased all communication. Petitioner stated that at the time of the conception of the child, she was living in Akron, Ohio and would meet the putative father at his household. Petitioner could not recall the exact location of his residence and only had a phone number for him that had since been disconnected. Petitioner stated that in 2006 or 2007 she contacted a mutual friend to attempt to locate the putative father. The mutual friend tried to locate the putative father through social media, but her attempt was unsuccessful. Petitioner stated she does not know any of the putative father's friends or family members and has no additional information to provide to assist OCS with establishing paternity.

Policy does not require that the client establish paternity of the child to be deemed compliant. A client is required to cooperate with OCS to the best of their ability by providing all known information about the absent parent, maintaining contact with OCS, appearing at the office of the prosecuting attorney when requested and complying with all requests for assistance in establishing paternity. BEM 255, p. 9. Petitioner gave credible testimony that she provided all known information to OCS. A significant period of time has lapsed since the birth of Petitioner's child, as well as the last point of contact with the putative father. Petitioner no longer lives in the area that the putative father lived and does not have any contact with any of his friends or family. Such circumstances make it difficult to locate the putative father. Petitioner gave credible testimony that she made a reasonable effort to locate the putative father by contacting a mutual friend and attempting to ascertain further identifying information through social media. Petitioner complied with OCS to the best of her ability. Therefore, the Department did not act in accordance with policy when it placed Petitioner in noncooperation status. As it follows, the Department did not act in accordance with policy when it disqualified Petitioner from the FAP group and reduced her FAP benefit amount.

### **DECISION AND ORDER**

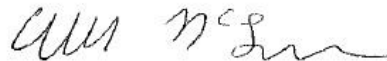
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it continued to disqualify Petitioner from the FAP group based on noncompliance with OCS.

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. Add Petitioner to FAP group as of August 1, 2019, ongoing, and recalculate FAP benefits for the group for August 1, 2019, ongoing;
2. If Petitioner is eligible for additional FAP benefits, issue supplements to Petitioner that she was entitled to receive but did not from August 1, 2019, ongoing;
3. Notify Petitioner of FAP decision in writing.

EM/cg



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**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 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:**

Office of Child Support (OCS)-MDHHS  
MDHHS-Wayne-19-Hearings  
M. Holden  
D. Sweeney  
BSC4- Hearing Decisions  
MOAHR

**Petitioner – Via First-Class Mail:**

[REDACTED]  
[REDACTED]  
[REDACTED], MI [REDACTED]