



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: November 7, 2019
MOAHR Docket No.: 19-010555
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: John Markey

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 October 28, 2019 from Detroit, Michigan. Petitioner appeared and represented herself. Also appearing on behalf of Petitioner was Petitioner's daughter, [REDACTED]. The Department of Health and Human Services (Department) was represented by Carolyn Begley, Hearings Facilitator, and Jeff Koteles, Lead Worker for the Department's Office of Child Support (OCS). During the hearing, a 39-page packet of documents was offered and admitted into evidence as Exhibit A, pp. 1-39.

ISSUE

Did the Department properly close Petitioner's Food Assistance Program (FAP) benefits case, effective October 1, 2019?

Did the Department properly maintain the sanction on Petitioner's FAP case for noncooperation with the Department's 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's child, [REDACTED], was born sometime in 2010.
2. As Petitioner was receiving or had applied for public benefits from the Department, the Department required Petitioner to identify [REDACTED] father. Petitioner was sent numerous documents requesting information concerning the father. After

Petitioner's responses failed to satisfy the Department, the Department sanctioned Petitioner's benefits case due to her alleged noncompliance with the Department's OCS. The noncompliance sanction was removed in 2010. Exhibit A, pp. 9-11.

3. In 2013, the Department requested further information from Petitioner regarding the unidentified father of [REDACTED]. Petitioner did not provide sufficient information to satisfy the Department. The noncooperation sanction was reapplied. Exhibit A, pp. 9-11; 16.
4. From 2013 through August 2017, Petitioner spoke with OCS a number of times regarding the noncooperation issue. During those conversations, Petitioner provided wholly inconsistent and incredible information concerning [REDACTED] father. At one point, Petitioner provided to the Department the name of a deceased individual she knew not to be the father in the hopes of getting taken out of noncooperation status. As of the last conversation in August 2017, the Department did not find Petitioner to be cooperative and retained the noncooperation sanction on Petitioner's case. Exhibit A, pp. 9-11.
5. In mid-2019, Petitioner's FAP case was due for an upcoming redetermination. As part of the process, the Department issued to Petitioner a May 22, 2019 Verification Checklist requesting verifications related to Petitioner's assets held in her checking account. Petitioner was informed that she had until June 3, 2019 to provide the requested documentation. Exhibit A, p. 6.
6. Petitioner did not provide the required information by the deadline and had yet to provide the information as of the date of the hearing.
7. On September 7, 2019, the Department issued to Petitioner a Notice of Case Action informing Petitioner that her FAP case was closing, effective October 1, 2019. The Notice of Case Action further informed Petitioner that she was still considered noncooperative with OCS. Exhibit A, pp. 7-8.
8. On [REDACTED] 2019, Petitioner submitted to the Department a request for hearing objecting to the Department's actions.

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.

In this case, Petitioner requested a hearing to dispute the closure of her FAP case, effective October 1, 2019, and the Department's refusal to remove an OCS noncooperation sanction from her case.

FAP CLOSURE, EFFECTIVE OCTOBER 1, 2019

In order to be eligible for FAP benefits, a group must have countable assets of \$5,000 or less. BEM 400 (May 2018), p. 5. Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level. BAM 130, p. 1. Additionally, the Department must obtain verification when information regarding an eligibility factor is unclear, inconsistent, incomplete, or contradictory. BAM 130, p. 1. To request verification of information, the Department sends a verification checklist (VCL) which tells the client what verification is required, how to obtain it, and the due date. BAM 130, p. 3. Verifications are considered timely if received by the date they are due. BAM 130, p. 7. The Department sends a negative case action when either (1) the client indicates a refusal to provide the verification or (2) the time period has elapsed and the client has not made a reasonable effort to provide the verification. BAM 130, p. 7.

The Department issued to Petitioner a May 22, 2019 Verification Checklist requesting verifications related to Petitioner's assets. Petitioner had until June 3, 2019 to provide the required documents to avoid negative action being taken against her FAP case. As of the date of the hearing in this matter, Petitioner had still not provided to the Department the documentation that was requested. As Petitioner neither provided the required documents nor made a reasonable effort to do so, the Department was compelled to take negative action, which it did via the September 7, 2019 Notice of Case Action closing Petitioner's FAP case, effective October 1, 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 acted in accordance with Department policy when it closed Petitioner's FAP case, effective October 1, 2019.

OCS NONCOOPERATION SANCTION

Parents have a responsibility to meet their children's needs by providing support and/or cooperating with the department, including OCS, the Friend of the Court (FOC) and the prosecuting attorney to establish paternity and/or obtain support from an absent parent. BEM 255 (April 2019), p. 1. Cooperation is required in all phases of the process to establish paternity and obtain support. It includes all of the following: 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, pp. 9-10. Cooperation is a condition FAP eligibility. BEM 255, p. 11. Failure to cooperate results in disqualification and removal from the FAP group of the individual who failed to cooperate. BEM 255, p. 14. Cooperation is assumed until negative action is applied as a result of noncooperation being entered. BEM 255, p. 11. The noncooperation sanction continues until the client cooperates. BEM 255, p. 15.


In this case, Petitioner was found to be noncooperative with OCS back in 2013. At that point, Petitioner's FAP case was sanctioned, and Petitioner was removed from the FAP group. Over the next few years, Petitioner had occasional interactions with OCS where Petitioner provided conflicting, dishonest, and misleading information regarding the father of her child. However, the last such contact before Petitioner submitted the hearing request that gave rise to the instant matter was in [REDACTED] 2017. From that date through the issuance of the September 7, 2019 Notice of Case Action, Petitioner provided no additional information to the Department. Without cooperation, which necessarily includes communication, the Department was prohibited from lifting the noncooperation sanction.

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 acted in accordance with Department policy when it did not remove the OCS noncooperation sanction from Petitioner's FAP case.

DECISION AND ORDER

Accordingly, the Department's decisions are **AFFIRMED**.

JM/tm



John Markey
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

Deborah Little
5131 Grand River Ave.
Detroit, MI
48208

Department Representative

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

Petitioner

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

cc: FAP: M. Holden; D. Sweeney
AP Specialist-Wayne County