



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]

Date Mailed: February 25, 2020
MOAHR Docket No.: [REDACTED]
Agency No.: 126011673
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 February 20, 2020 from Detroit, Michigan. The Petitioner was self-represented. The Department of Health and Human Services (Department) was represented by Juanita Munoz, Hearings Facilitator, and Renee Boucher, Lead Child Support Specialist.

ISSUE

Did the Department properly close Petitioner's Family Independence Program (FIP) case and disqualify her from the Food Assistance Program (FAP) due to noncompliance with child support requirements?

Did the Department properly close Petitioner's FAP case for failure to return the completed Wage Match Client Notice?

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 FIP and FAP recipient.
2. On October 3, 2019, the Office of Child Support (OCS) received a Bridges referral for Petitioner.
3. On October 8, 2019, OCS issued a First Customer Contact Notice to Petitioner requesting information about the paternity of her child.

4. On October 18, 2019, OCS issued a Final Customer Contact Notice to Petitioner requesting information about the paternity of her child.
5. On October 21, 2019 and October 22, 2019, Petitioner contacted OCS to discuss the paternity of her child.
6. On October 27, 2019, OCS issued a Noncooperation Notice to Petitioner informing her that she was considered to be in noncooperation with child support requirements.
7. On October 29, 2019, the Department issued a Notice of Case Action to Petitioner informing her that effective December 1, 2019, Petitioner's FIP benefit would close and her FAP benefits would decrease because she was disqualified from her FAP group based upon noncooperation with child support requirements.
8. On the same day, the Department issued a Wage Match Client Notice to Petitioner requesting that she complete the form and return it to the Department by December 2, 2019, in order to verify her employment income with [REDACTED] (Employer).
9. On [REDACTED] 2019, Petitioner contacted OCS again to discuss the paternity of her child.
10. On [REDACTED] 2019, Petitioner had a telephone meeting with her Department case worker to discuss the Wage Match Client Notice.
11. On December 18, 2019, the Department issued a Notice of Case Action to Petitioner informing her that effective February 1, 2020, her FAP benefits would close for failure to provide requested information (employment verification/Wage Match Client Notice).
12. On January 7, 2020, the Department received Petitioner's request for hearing disputing the closure of her FIP and FAP benefits.

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 Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Department of Human Services) administers FIP pursuant to 45 CFR 233-260, MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3101-.3131.

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 disputes the closure of both her FIP and FAP cases as well as her disqualification from FAP due to noncooperation with child support requirements.

In FIP and FAP cases, the custodial parent or alternative caretaker of a child receiving assistance must comply with all requests for action or information needed to establish paternity and/or obtain child support, 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 disqualification including member removal for FAP and group ineligibility for FIP. BEM 255, pp. 2, 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.

Petitioner contacted OCS twice before the noncooperation notice and once after the noncooperation notice. In the first two conversations, Petitioner identified the father of her child as Richard or Ricky that she had met in New Jersey at a club called Noches De Columbia while visiting her sister. Petitioner's sister lives in New Jersey and Petitioner lives in Michigan. She has not been back to New Jersey since visiting her sister in December 2018/January 2019 when conception occurred. In addition, Petitioner has sent her sister back to the club two or three times in an attempt to locate the father but her sister was unsuccessful. When speaking with OCS, Petitioner described the man as being 5 foot 6 inches with an average build, short dark hair, and dark eyes. Petitioner and the father never exchanged phone numbers because they met in the club one night, met again a second night, and then agreed that they would see each other again at the club on New Year's Eve. Petitioner has personally attempted to locate the father on social media but was also unsuccessful. In the final conversation with OCS on October 30, 2019, Petitioner told OCS she did not have any additional information and that her sister had attempted to locate him at the club but was unsuccessful.

After reviewing all of the evidence from both parties, Petitioner appears to have provided all known information about the paternity of her child. Since policy only requires an individual to provide all known information and to take reasonable steps to try to discover the paternity of a child, Petitioner has complied with policy. OCS and the Department erred in placing Petitioner in noncooperation with child support requirements. Therefore, the Department erred in closing Petitioner's FIP case for three months and disqualifying her from FAP.

Turning to the issue of the closure of Petitioner's FAP benefits due to a failure to verify requested employment information, Petitioner admits that she received the Wage Match Client Notice in December 2019. She also admits that she did not look closely at the form; therefore, she did not realize that the wages from the quarter in question on the form in December 2019 were different than the wages listed on the form she received in May 2019. As a result, Petitioner believed that the information she had provided to the Department in May 2019 was sufficient to meet the Department's requirements. Since Petitioner believed the previous information was adequate, she made an appointment with her caseworker to discuss the verifications. At that appointment, Petitioner's caseworker told Petitioner that she would look into the check stubs and would contact Petitioner. After the appointment, the next thing Petitioner received was the Notice of Case Action closing her case effective February 1, 2020 for failure to verify employment through the Wage Match Client Notice.

The Department matches employment data with the Michigan Talent Investment Agency (TIA) and the Unemployment Insurance Agency through computer data exchanges by Social Security numbers on a quarterly basis. BAM 802 (July 2018), p. 1. If a discrepancy occurs between information provided by the client and the information provided from the Unemployment Insurance Agency, the Department is required to request verification from the client by generating a Wage Match Client Notice giving the client 30 days to provide verification. BAM 802, p. 2. If a client fails to provide the requested information by the 30th day, the case will be closed. *Id.* Policy also provides that if a client requests assistance in completing forms, gathering verifications, or understanding correspondence from the Department, the Department is required to provide assistance. BAM 105 (October 2019), p. 15.

Petitioner specifically sought out the assistance of her caseworker when she scheduled an appointment and attended the appointment to clarify what was needed of her with regard to the Wage Match Client Notice in December 2019. The caseworker told Petitioner she would follow up with Petitioner after reviewing her case file to determine if previous verifications were sufficient; however, the caseworker never provided any conclusions to Petitioner. Instead, Petitioner received a case closure notice for failing to provide requested verifications. The caseworker's failure to follow up with Petitioner's request for assistance violated policy. Therefore, the closure of Petitioner's FAP case was not in accordance with policy.

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 noncooperation with child support requirements, closed her FIP case, disqualified her from her FAP case, or closed her FAP case for failure to verify her employment.

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 with child support status from Petitioner's case file;
2. Remove the FIP sanction from Petitioner's FIP case;
3. Remove Petitioner's disqualification from FAP for noncooperation with child support requirements;
4. Redetermine Petitioner's eligibility for FIP benefits effective December 1, 2019;
5. Redetermine Petitioner's eligibility for FAP effective December 1, 2019;
6. If otherwise eligible, issue supplements to Petitioner for benefits not previously received for FIP and FAP; and,
7. Notify Petitioner in writing of its decision.

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

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