



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

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██████████, MI ██████████

Date Mailed: November 20, 2020
MOAHR Docket No.: 20-006468
Agency No.: ██████████
Petitioner: ██████████ ██████████

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, a telephone hearing was held on November 5, 2020. Petitioner was represented by her mother ██████████ ██████████ and Petitioner testified on her own behalf. The Department was represented by Jessica Kirchmeier and Anissa Ali of the Office of Child Support.

ISSUE

Did the Department of Health and Human Services (Department) properly determine Petitioner's eligibility for Food Assistance Program (FAP) benefits?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On September 1, 2020, the Department's Office of Child Support requested that Petitioner provide information necessary to identify and locate the absent parent of her child. Exhibit A, p 19.
2. On September 11, 2020, the Department's Office of Child Support requested that Petitioner provide information necessary to identify and locate the absent parent of her child. Exhibit A, p 23.
3. Department records indicate that Petitioner was unable to receive written correspondence at her mailing address on record with the Office of Child Support. Exhibit A, p 29.
4. On September 10, 2020, Petitioner reported to the Department's Office of Child Support that she could not identify the father of her child. Department records

indicate that she reported that she was impregnated by a man not known to her after becoming intoxicated while celebrating her birthday. Exhibit A, p 29.

5. On September 20, 2020, the Department notified Petitioner that she was considered to be noncooperative with efforts by the Department's Office of Child Support to identify and locate the absent parent of her child. Exhibit A, p 27.
6. On September 21, 2020, the Department notified Petitioner that she was eligible for Food Assistance Program (FAP) benefits as of November 1, 2020, as a household of two, and that she was disqualified from the household for her failure to cooperate with the Office of Child Support. Exhibit A, pp 4-8.
7. On October 2, 2020, the Department received Petitioner's request for a hearing protesting her eligibility for the Food Assistance Program (FAP). Exhibit A, p 9.

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) is funded under the federal Supplemental Nutrition Assistance Program (SNAP) established by the Food and Nutrition Act of 2008, as amended, 7 USC 2011 through 7 USC 2036a. It is implemented by the federal regulations contained in 7 CFR 273. The Department administers FAP pursuant to MCL 400.10 of the Social Welfare Act, MCL 400.1 *et seq*, and Mich Admin Code, R 400.3001 through 400.3011.

Families are strengthened when children's needs are met. Parents have a responsibility to meet their children's needs by providing support and/or cooperating with the department, including the Office of Child Support (OCS), the Friend of the Court (FOC) and the prosecuting attorney to establish paternity and/or obtain support from an absent parent. 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. Failure to cooperate without good cause results in disqualification. Disqualification includes member removal, as well as denial or closure of program benefits. Department of Human Services Bridges Eligibility Manual (BEM) 255 (January 1, 2020), pp 1-2.

Cooperation is a condition of eligibility for FAP benefits. Cooperation is required in all phases of the process to establish paternity and obtain support. It includes providing all known information about the absent parent. BEM 255, pp 9-10.

The Department's Office of Child Support sent Petitioner written requests for information necessary to identify the absent parent of her child. Department records indicate that

Petitioner was unable to receive written correspondence at her mailing address of record with the Office of Child Support.

On September 10, 2020, Petitioner contacted the Office of Child Support by telephone. Petitioner reported to the Office of Child Support that she was unable to identify the father of her child. Petitioner reported to the Office of Child Support that she was impregnated by a man not known to her after becoming intoxicated on her birthday.

The Department presented records from Petitioner's file with the Office of Child Support. These regularly kept business records of the Office of Child Support were presented by a representative of the Office of Child support as the custodian of those records.

However, no witnesses with direct and personal information of the information Petitioner reported on September 10, 2020, testified during the hearing. No witnesses that had an opportunity to interview Petitioner testified during the hearing and evaluate the credibility of the statements she made to the Office of Child Support.

Records compiled by the Office of Child Support indicate that Petitioner reported not being able to recall the identify of the father of her child, and her lack of memory was caused by her becoming intoxicated on the day she became pregnant with her child. Petitioner continues to credibly assert that the identity of the father is unknown to her.

The Department failed to present any evidence suggesting that Petitioner is withholding information that could be used to identify the father of her child. The Department's basis for finding Petitioner to be noncooperative is her failure to provide the Department with sufficient identifying features of her child's father. Therefore, the Department has failed to establish that Petitioner has failed to provide all information known to her about the absent father of her child.

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 determined Petitioner's eligibility for Food Assistance Program (FAP) based on a finding of noncooperation with the Department's Office of Child Support.


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. Delete the noncooperation disqualification from Petitioner's benefits case file.
2. Initiate a determination of the Petitioner's eligibility for the Food Assistance Program (FAP) benefits as of November 1, 2020.
3. Provide the Petitioner with written notice describing the Department's revised eligibility determination.
4. Issue the Petitioner any retroactive benefits she may be eligible to receive, if any.

KS/nr



Kevin Scully
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

Lacy Miller
105 W. Tolles Drive
St. Johns, MI
48879

Clinton County DHHS- via electronic mail

BSC2- via electronic mail

M. Holden- via electronic mail

D. Sweeney- via electronic mail

Dept. Contact

Office of Child Support (OCS)-MDHHS-
via electronic mail
235 S. Grand Avenue Ste. 810
Lansing, MI
48903

Counsel for Petitioner

██████████ - via first class mail

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Petitioner

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