



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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Date Mailed: January 21, 2021
MOAHR Docket No.: 20-007627
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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 January 7, 2020. [REDACTED], the Petitioner, appeared on her own behalf. The Department of Health and Human Services (Department) was represented by Denise Kubiszak, Family Independence Specialist (FIS), Patricia Bregg, Lead Worker, Office of Child Support (OCS), and Theresa Ware, Family Independence Manager (FIM) appeared as witness for the Department.

During the hearing proceeding, the Department's Hearing Summary packet was admitted as Exhibit A, pp. 1-29.

ISSUE

Did the Department properly reduce Food Assistance Program (FAP) benefits, and close Family Independence Program (FIP) benefits based on a failure to cooperate with child support requirements?

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 family was receiving FAP and FIP benefits.
2. On July 14, 2020, a first contact letter was issued to Petitioner from OCS. Petitioner was to contact OCS and provide more information within 10 days to keep getting all benefits. (Exhibit A, pp. 20-23; Lead Worker Testimony)

3. Petitioner did not respond to the July 14, 2020, contact letter. (Exhibit A, p. 24; Lead Worker Testimony)
4. On July 25, 2020, a second contact letter was issued to Petitioner from OCS. Petitioner was to contact OCS and provide more information by August 1, 2020 to keep getting all benefits. (Exhibit A, pp. 16-19; Lead Worker Testimony)
5. Petitioner did not respond to the July 25, 2020, contact letter. (Exhibit A, p. 24; Lead Worker Testimony)
6. On August 2, 2020, Petitioner was placed into non-cooperation status. (Exhibit A, p. 24)
7. On August 2, 2020, a Noncooperation Notice was issued to Petitioner advising her that she was considered to be non-cooperative with the child support program. (Exhibit A, pp. 26-29)
8. On August 4, 2020, a Notice of Case Action was issued to Petitioner stating FIP would close and FAP would be reduced effective September 1, 2020, based the non-cooperation status with OCS. (Exhibit A, pp. 6-11)
9. There was no evidence that Petitioner has made a claim of good cause with OCS.
10. On November 23, 2020, Petitioner filed a hearing request contesting the Department's actions. (Exhibit A, pp. 3-5)

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.

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. BEM 255, January 1, 2020, 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. BEM 255, p. 1.

Cooperation is a condition of eligibility for FAP and FIP. The following individuals who receive assistance on behalf of a child are required to cooperate in establishing paternity and obtaining support, unless good cause has been granted or is pending: grantee (head of household) and spouse; specified relative/individual acting as a parent and spouse; and parent of the child for whom paternity and/or support action is required. 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 assumed until negative action is applied as a result of non-cooperation being entered. The non-cooperation continues until a comply date is entered by the primary support specialist or cooperation is no longer an eligibility factor. BEM 255 p. 11.

There are two types of good cause: (1) cases in which establishing paternity/securing support would harm the child, and (2) cases in which there is danger of physical or emotional harm to the child or client. BEM 255 pp. 3-4.

If a client claims good cause, both the specialist and the client must sign the DHS-2168. The client must complete Section 2, specifying the type of good cause and the individual(s) affected. BEM 255 p. 4.

In this case, a first contact letter was issued to Petitioner from OCS on July 14, 2020. Petitioner was to contact OCS and provide more information within 10 days to keep getting all benefits. (Exhibit A, pp. 20-23; Lead Worker Testimony) Petitioner did not respond to the July 14, 2020, contact letter. (Exhibit A, p. 24; Lead Worker Testimony) On July 25, 2020, a second contact letter was issued to Petitioner from OCS. Petitioner was to contact OCS and provide more information by August 1, 2020 to keep getting all benefits. (Exhibit A, pp. 16-19; Lead Worker Testimony) Petitioner did not respond to the July 25, 2020, contact letter. (Exhibit A, p. 24; Lead Worker Testimony) Accordingly, on August 2, 2020, Petitioner was placed into non-cooperation status. (Exhibit A, p. 24) (Lead Worker Testimony)

Petitioner contacted OCS after she was placed into non-cooperation status. However, Petitioner did not provide information that would identify the absent parent. It was asserted that Petitioner provided differing information during contacts on August 4, 2020, and August 25, 2020, specifically whether she was with multiple guys or had just met a guy. Petitioner had no information to identify the guy(s) during either call. On August 31, 2020, Petitioner called OCS again and stated she did not have any new information. (Lead Worker Testimony)

Petitioner testified that the father of her child was a one-night stand. Petitioner was not sure how it came to be that she was with multiple people. The only thing Petitioner knows is that the father had blue eyes because her child has blue eyes. (Petitioner Testimony)

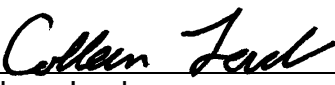
Overall, the evidence indicates that at the time Petitioner was placed into non-cooperation status, she had not provided OCS with any information regarding the father of her child as requested. Specifically, Petitioner did not respond to the OCS contact letters within the stated timeframes. Accordingly, Petitioner was placed into non-cooperation status at that time. There was also no evidence that Petitioner has claimed good cause and completed a DHS-2168. Accordingly, the Department's action must be upheld.

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 reduced the FAP benefits and closed FIP benefits due to the failure to cooperate with child support requirements based on the information available at the time of the determination.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.

CL/ml



Colleen Lack
Administrative Law Judge
for Robert Gordon, Director
Department of Health and Human Services

