



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: May 4, 2022
MOAHR Docket No.: 22-001376
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Marya Nelson-Davis

HEARING DECISION

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 April 21, 2022, from Lansing, Michigan. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by Michael Heck, PATH Worker, and Lynne Crittendon, Lead Support Specialist for the Office of Child Support (OCS).

ISSUE

Did the Department properly close Petitioner's Family Independence Program (FIP) case and reduce her Food Assistance Program (FAP) benefits due to her failure to cooperate with 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 recipient of FIP and FAP benefits.
2. At all times relevant to this matter, Petitioner's mailing address was ██████████ ██████████ MI ██████████. (Department Hearing Summary and Testimony on the record)
3. On October 10, 2021, the Department mailed a letter addressed to Petitioner, requesting that she provide information about herself and her family to the child support program within 10 days of the date of that letter to continue getting public assistance. (Department Exhibit D)

4. On October 20, 2021, the Department mailed a letter addressed to Petitioner, requesting that she provide information about herself and her family to the child support program by October 28, 2021, to continue getting public assistance. (Department Exhibit E)
5. Although the letters dated October 10 and October 20 were addressed to Petitioner, they were mailed to [REDACTED] MI [REDACTED] instead of her current address of record; both letters were automatically generated by the Department's Computer Information System. (Department Exhibit D & E)
6. On October 29, 2021, Petitioner was placed in noncompliance with OCS for failure to cooperate with OCS in establishing the paternity of her child. (Department Exhibit A)
7. On February 10, 2022, the Department sent Petitioner a Notice of Case Action notifying her that her FIP case was closing effective March 1, 2022, and her FAP benefits were being reduced effective March 1, 2022. (Department Exhibit B)
8. The Department's negative FAP action was deleted effective April 1, 2022, pending the outcome of her hearing.
9. On March 10, 2022, the Department received Petitioner's Request for Hearing disputing the closure of her FIP case and the reduction of her 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.

Petitioner requested a hearing disputing the closure of her FIP case, and the reduction of her FAP benefits. The Department's negative case actions were due to Petitioner's

alleged failure to cooperate with OCS in establishing the paternity of the absent parent of Petitioner's child. As a condition of FIP and FAP eligibility, custodial parents must comply with all requests by OCS 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 (April 2019), p. 1. Cooperation includes providing all known information about the absent parent. BEM 255, p. 9. Failure to cooperate without good cause results in disqualification. BEM 255, p. 2. If a member of the group fails to cooperate with child support reporting requirements, the group is ineligible for FIP until the member cooperates and for at least one month. BEM 225, p. 13. The disqualified individual is removed from the FAP group until the member cooperates and for at least one month. BEM 225, p. 14.

In this case, the Department failed to establish that Petitioner refused to cooperate with OCS. The Department sent letters, requesting needed information concerning the paternity of Petitioner's child to Petitioner's old address, not to her current address of record. Petitioner testified credibly that she never received those letters, but she did respond to other correspondence the Department sent to her correct [REDACTED] address. The Department did not rebut Petitioner's credible testimony and could not explain why the letters were sent to the Petitioner's incorrect address. Therefore, the Departments FIP and FAP negative action cannot be upheld.

DECISION AND ORDER


The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, decides that the Department improperly closed Petitioner's FIP case and reduced her FAP benefits based on a failure to cooperate with OCS.

IT IS THEREFORE ORDERED that the Department's FAP and FIP negative action is REVERSED, and the Department shall **BEGIN** doing the following, in accordance with Department policy and consistent with this Hearing Decision with 10 days of the date of mailing of this Decision and Order:

1. Remove the OCS October 29, 2021, noncompliance date.
2. Reinstate Petitioner's FAP and FIP cases as of March 1, 2022.
3. Add Petitioner back to her FAP group as of March 1, 2022; and

4. Issue any FIP and FAP supplements that Petitioner was otherwise eligible to receive beginning March 1, 2022, ongoing.

MN-D/mp


Marya Nelson-Davis
Administrative Law Judge

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

Email Recipients:

MDHHS-Wayne-31-Grandmont-Hearing
MDHHS-OCS-Admin-Hearings
D. Sweeney
B. Sanborn
M. Holden
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First-Class Mail Recipient:

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