



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED], MI [REDACTED]

Date Mailed: December 1, 2022
MOAHR Docket No.: 22-004679
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 hearing was held via telephone conference line on November 21, 2022. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Stephanie Wallingford, specialist. Kym Shinneman, prosecuting attorney for Macomb County, testified on behalf of MDHHS.

ISSUE

The issue is whether MDHHS properly imposed a child support disqualification to affect Petitioner's Family Independence (FIP) eligibility.

FINDINGS OF FACT

The administrative law judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. As of June 2022, Petitioner was an ongoing recipient of FIP benefits with a group that included a child born in May 2022 (hereinafter, "Child").
2. On June 27, 2022, Macomb County mailed Petitioner notice of an appointment on July 18, 2022, to provide paternal information for Child.
3. On July 13, 2022, MDHHS sent Petitioner notice of FIP benefit termination beginning August 2022. The basis of termination was non-child support related reasons.
4. On July 18, 2022, Petitioner failed to attend the appointment for child support.

5. On July 19, 2022, Macomb County mailed Petitioner notice of an appointment on August 9, 2022, to provide paternal information for Child.
6. On August 9, 2022, Petitioner failed to attend the appointment for child support
7. On August 12, 2022, MDHHS imposed a child support disqualification against Petitioner.
8. On August 30, 2022, Petitioner requested a hearing to dispute the termination of FIP benefits beginning August 2022.
9. On September 29, 2022, an administrative hearing decision ordered MDHHS to reinstate Petitioner's FIP eligibility beginning August 2022 and to supplement benefits if Petitioner was otherwise eligible.
10. On October 4, 2022, Petitioner provided paternal information for Child to Macomb County.
11. On October 7, 2022, MDHHS reinstated Petitioner's FIP eligibility beginning November 2022. MDHHS did not issue benefits to Petitioner from August through October 2022 due to the child support disqualification.
12. On October 11, 2022, Petitioner requested a hearing to dispute the failure by MDHHS to receive FIP benefits in August, September, and October 2022.

CONCLUSIONS OF LAW

The 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. MDHHS administers the 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. FIP policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing to dispute a period of FIP ineligibility. Exhibit A, pp. 4-6. A Notice of Case Action dated October 7, 2022, stated that Petitioner was ineligible for FIP benefits from August through October 2022 due to noncooperation with child support. Exhibit A, pp. 23-26.

Generally, the Office of Child Support (OCS) determines cooperation for required support actions.¹ BEM 255 (January 2020) p. 11. 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

¹ MDHHS specialists determine cooperation concerning unreturned support payments issued after the support certification date. *Id.*

receive assistance, unless a claim of good cause for not cooperating has been granted or is pending. BEM 255 (January 2020) p. 1. Cooperation is required in all phases of the process to establish paternity and obtain support. *Id.* p. 9. Cooperation 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.
- Taking any actions needed to establish paternity and obtain child support (including but not limited to testifying at hearings or obtaining genetic tests). *Id.*

An individual required to cooperate who fails to cooperate without good cause is ineligible for FIP for a minimum of one month. *Id.*, p. 13. MDHHS will close FIP for a minimum of one calendar month when any member required to cooperate has been determined uncooperative with child support. *Id.* The disqualification is effective the first day of a month.² *Id.*

MDHHS contended that a child support disqualification was properly imposed on Petitioner's case. To support its contention, a Macomb County prosecuting attorney credibly testified that letters were sent to Petitioner on June 27 and July 19, 2022, advising Petitioner of appointments to report paternal information for Child. It was not disputed that Petitioner missed both appointments. MDHHS imposed the child support disqualification on Petitioner's case on August 12, 2022, after Petitioner missed the second appointment. It was not disputed that Petitioner complied with child support requirements by providing paternal information to the county prosecutor on October 4, 2022.

To dispute the child support disqualification, Petitioner claimed that she did not receive notice of either appointment or subsequent correspondence stating she was uncooperative. Though the letters were not presented, the prosecuting attorney credibly testified that she possessed copies of the letters. The prosecuting attorney also credibly testified that the county database shows that the two appointment notices and notice of disqualification were mailed to the same address verified by Petitioner during the hearing as her proper mailing address.

The evidence established that Petitioner failed to attend multiple appointments concerning paternity after receiving proper notice. Given the evidence, MDHHS properly imposed a child support disqualification against Petitioner from August 12 through October 4, 2022. However, a child support disqualification from August 12 through October 4, 2022, does not necessarily preclude FIP eligibility from August through October 2022.

There are two types of written notice: adequate and timely. Adequate notice is a written notice sent to the client at the same time an action takes effect (not pending). BEM 220

² Presumably, MDHHS intended this policy to mean the first of a following month because no known policy supports affecting benefit eligibility in the month of child support non-cooperation.

(April 2019) p. 3. A timely notice is mailed at least 11 days before the intended negative action takes effect; the action is pended to provide the client a chance to react to the proposed action. *Id.*, p. 4. Timely notice is given for a negative action unless policy specifies adequate notice or no notice. *Id.* For timely notices, the benefit month affected would be the month after the negative action date. Child support disqualification is not among the occasions when adequate or no notice is proper *Id.*, pp. 3-4.

MDHHS terminated Petitioner's FIP eligibility beginning August 2022 on July 13, 2022, for reasons other than child support. Thus, Petitioner's case was already closed when MDHHS imposed a child support disqualification on August 12, 2022. However, an administrative law judge concluded that MDHHS improperly terminated Petitioner's FIP eligibility.³ The judge ordered MDHHS to reinstate benefits back to August 2022 on September 29, 2022. Exhibit A, pp. 11-15. Had MDHHS not improperly terminated Petitioner's FIP eligibility for non-child support reasons, a child support disqualification date of August 12, 2022 would have resulted in a negative action date in later August and affected FIP benefits beginning September 2022. In other words, had MDHHS not improperly terminated Petitioner's FIP eligibility, Petitioner would have received FIP benefits in August 2022 regardless of the child support disqualification. No known policy allows MDHHS to deny Petitioner FIP benefits for August 2022 for a child support disqualification imposed in August 2022. Given the evidence, Petitioner is entitled to FIP benefits for August 2022.

Due to the child support disqualification imposed in August 2022, Petitioner must serve a one-month minimum penalty. Thus, Petitioner is not entitled to benefits for at least September 2022.

Petitioner contended that she is entitled to FIP benefits for October 2022. Again, the analysis is complicated by MDHHS's improper closure of FIP benefits.

At application, uncooperative clients have 10 days to cooperate with obtaining child support. BEM 255 (January 2020) p. 1. MDHHS authorizes continued disqualification only when the client fails to comply after the 10 days.⁴ Presumably, clients who reapply for FIP and comply with child support requirements within 10 days of application are not penalized further and applications are processed normally. Provided the group meets all eligibility requirements, MDHHS is to begin FIP benefits for applicants in the pay period in which the application becomes 30 days old. BAM 115 (October 2022) p. 25.

Typically, clients with a child support disqualification who are not compliant by a negative action date must reapply for benefits. Petitioner did not have to reapply following child support disqualification because MDHHS was ordered by an administrative law judge to reinstate FIP benefits and Petitioner became compliant with child support shortly thereafter. MDHHS policy does not address Petitioner's unusual circumstances. In the absence of policy, it is apt to evaluate the circumstances as if

³ See docket no. 22-003803.

⁴ MDHHS policy frames the compliance deadline as the date after a Verification Checklist is sent notifying the client of noncompliance.

MDHHS did not improperly close Petitioner's case and to interpret the administrative hearing order of reinstatement dated September 29, 2022, as a new application. Had Petitioner applied for FIP on September 29, 2022, and became compliant within 10 days, MDHHS would have processed Petitioner's application and issued FIP benefits accordingly. Petitioner would have received FIP benefits beginning the second half of October 2022 (30 days after the application date) for an application dated September 29, 2022. Given the evidence, MDHHS erred in denying FIP benefits to Petitioner for the second half of October 2022.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly determined Petitioner's FIP eligibility. It is ordered that MDHHS commence the following actions within 10 days of the date of mailing of this decision:

- (1) Supplement FIP benefits to Petitioner for August 2022 and the second half of October 2022; and
- (2) Issue notice in accordance with policy.

The actions taken by MDHHS are **REVERSED**.

CG/mp



Christian Gardocki
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

Via-Electronic Mail :

DHHS
MDHHS-Macomb-20-Hearings
B. Sanborn
MOAHR
BSC4

Via-First Class Mail :

Petitioner

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[REDACTED]
[REDACTED], MI [REDACTED]