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GOVERNOR

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

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DIRECTOR

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Date Mailed: December 13, 2022
MOAHR Docket No.: 22-005068
Agency No.: ██████████
Petitioner: ██████████

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 December 5, 2022. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Mita Bhatia, case manager and Tiffany Heard, child support lead specialist.

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. In 2020, after moving to Michigan, Petitioner reported to Macomb County that she resided with her biological child, ██████████ (hereinafter, “Child”). Petitioner additionally provided the county with a child support order for Child obtained while Petitioner lived outside of Michigan.
2. As of June 2022, Petitioner was an ongoing recipient of FIP benefits with Child and four other children.
3. On June 14, 2022, Oakland County mailed Petitioner a request for completion of child support documents for Child by July 14, 2022.

4. On July 18, 2022, Oakland County mailed Petitioner a request for completion of child support documents for Child by August 18, 2022.
5. In July 2022, Petitioner reported to Oakland and/or Macomb County that she had a child support order for Child.
6. On [REDACTED] 2022, MDHHS terminated Petitioner's FIP eligibility beginning [REDACTED] 2022 due to Claimant's non-cooperation with obtaining support for Child.
7. On October 11, 2022, Petitioner completed good cause documents concerning support for Child.
8. On [REDACTED] 2022, MDHHS reinstated Petitioner's FIP eligibility beginning November 2022 and determined Petitioner to be ineligible for [REDACTED] 2022 due to noncooperation with obtaining support for Child.
9. On October 25, 2022, Petitioner requested a hearing to dispute FIP benefit eligibility from [REDACTED] 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 "all" benefits. Exhibit A, pp. 5-11. During the hearing, Petitioner clarified that her only ongoing dispute concerned FIP eligibility for [REDACTED] 2022. A Notice of Case Action dated [REDACTED] 2022, stated that Petitioner was ineligible for FIP benefits beginning [REDACTED] 2022 due to noncooperation in obtaining support for Child. Exhibit A, pp. 12-18.

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 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 the following:

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

- 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.. MDHHS testified that Petitioner reported in 2008 a potential father for Child.³ Petitioner's child support case remained stagnant while Petitioner resided outside of Michigan until 2020. The prosecuting attorney office of Oakland County mailed Petitioner letters on June 14 and July 18, 2022, requesting completion of documents concerning the father named by Petitioner in 2008. After Petitioner failed to return the documents by deadline of August 18, 2022, MDHHS imposed a child support disqualification. Exhibit A, pp. 35-36.

On October 11, 2022, Petitioner completed documents alleging good cause for not cooperating with obtaining child support for Child.⁴ Exhibit A, pp. 19-20. MDHHS approved good cause for Petitioner on ██████████ 2022, beginning ██████████ 2022. Exhibit A, pp. 26-32. Thus, Petitioner only did not receive FIP benefits in October 2022.

Petitioner testified that Macomb County contacted her in March 2020 concerning Child's paternity. Petitioner also testified that she sent Macomb County a child support order for Child obtained while residing outside of Michigan. Petitioner further testified that she first contacted Oakland County in early 2022 to request a transfer of child support cases from the State of Alabama. Petitioner also reported to Macomb and Oakland County in July 2022 that the person she named in 2008 was not the father and that she already had a support order for Child from the State of Alabama.

Petitioner's testimony that she had a child support order for Child was undisputed. Thus, at worst, Petitioner failed to timely communicate having a child support order to a county prosecutor's office. Generally, an absence of communication in response to requests for child support is consistent with a parent attempting to stonewall the paternity process. Petitioner had no such motive as a support order was already established for Child. Perhaps MDHHS and/or the Office of Child Support were unaware until October 2022 that a support order had been obtained for Child; however, the evidence established

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.

³ The potential father reported by Petitioner was not the person eventually named as Child's father in a support order.

⁴ The good cause related to Petitioner's claim that Child's father was abusive and support could endanger her and/or her children.

that Petitioner provided multiple county prosecutor offices the information needed to be compliant with child support.

Given the evidence, Petitioner was cooperative with establishing child support for Child. Thus, MDHHS improperly imposed a child support disqualification against Petitioner beginning [REDACTED] 2022.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly imposed a child support disqualification against Petitioner. It is ordered that MDHHS commence the following actions within 10 days of the date of mailing of this decision:

- (1) Delete the child support disqualification against Petitioner related to the Notice of Case Action dated [REDACTED] 2022;
- (2) Reprocess Petitioner's FIP eligibility beginning [REDACTED] 2022; and
- (3) Issue supplements and 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-Oakland-DistrictII-Hearings
B. Sanborn
MOAHR
BSC4

Via-First Class Mail :

Petitioner

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