



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 16, 2022  
MOAHR Docket No.: 22-005218  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Zainab A. Baydoun**

### **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 December 7, 2022, from Detroit, Michigan. Petitioner appeared for the hearing and represented herself. The Department of Health and Human Services (Department) was represented by Rena Pointer, Assistance Payments Worker. Lynne Crittendon, Lead Support Specialist appeared on behalf of the Office of Child Support (OCS).

### **ISSUE**

Did the Department properly process Petitioner's Food Assistance Program (FAP) benefits and deny her applications for State Emergency Relief (SER) and Child Development and Care (CDC) 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. Petitioner and her children were ongoing recipient of FAP benefits.
2. On or around October 9, 2022, and [REDACTED] 2022, the Office of Child Support (OCS) sent Petitioner first and second contact letters instructing her to contact OCS and provide information on the absent parent of Child A (Female, Date of Birth: [REDACTED] 2022). On or around October 28, 2022, the OCS sent Petitioner a noncooperation notice advising her that she was found to be in noncooperation with child support requirements. (Exhibit B)

3. On or around October 28, 2022, the Department placed Petitioner in noncooperation with child support requirements with respect to Child A and determined she was ineligible for FAP benefits.
4. On October 29, 2022, the Department sent Petitioner a Notice of Case Action advising her that effective December 1, 2022, she was disqualified from the FAP group and determined ineligible for FAP benefits based on her noncooperation with child support requirements. The other members of Petitioner's household continued to be eligible for FAP benefits. (Exhibit A, pp. 9-13)
5. On or around [REDACTED] 2022, Petitioner submitted an application requesting SER and CDC benefits. (Exhibit A, pp. 16-28)
  - a. On the application, Petitioner reported that she was not working due to giving birth in [REDACTED] Petitioner reported that no one in the household is employed or expected to work in the next month.
6. On or around November 15, 2022, the Department sent Petitioner Case Action, advising her that her application for CDC benefits was denied because, among other reasons, the children are not eligible because the parent does not have a need for child day care services due to employment, education, or family preservation reasons. (Exhibit A, pp.29 – 34)
7. On or around November 15, 2022, the Department sent Petitioner a State Emergency Relief Decision Notice, advising her that her request for assistance with relocation and energy services was denied because she failed to cooperate with child support requirements. (Exhibit A, pp.37 – 39)
8. In reviewing Petitioner's case, the OCS discovered that the individual previously identified by Petitioner to be the absent parent of Child B (Male, Date of Birth: [REDACTED] 2018), had been excluded after genetic testing was completed. (Exhibit B)
9. On or around November 15, 2022, Petitioner requested a hearing disputing the Department's actions with respect to her FAP, SER, and CDC benefits. (Exhibit A, pp.3 – 5)
10. On or around November 9, 2022, and November 19, 2022, the OCS sent Petitioner first and second contact letters instructing her to contact OCS and provide information on the absent parent of Child B. On or around [REDACTED] 2022, the OCS sent Petitioner a noncooperation notice advising her that she was found to be in noncooperation with child support requirements with respect to Child B. (Exhibit B)

## **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).

### **CDC**

The Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, 42 USC 601-619, 670-679c, and 1397-1397m-5; the Child Care and Development Block Grant of 1990, PL 101-508, 42 USC 9858 to 9858q; and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193. The program is implemented by 45 CFR 98.1-99.33. The Department administers the program pursuant to MCL 400.10 and provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001-.5020.

The goal of the CDC program is to support low-income families by providing access to high-quality, affordable, and accessible early learning and development opportunities and to assist the family in achieving economic independence and self-sufficiency. The CDC program is intended to promote continuity of care and to extend the time an eligible child has access to child care assistance by providing a subsidy for child care services for qualifying families. BEM 703 (April 2022), p.1. In order to receive CDC benefits, the parent must demonstrate a valid and verified need reason. There are four valid CDC need reasons: family preservation, high school completion, an approved activity, and employment. BEM 703, p.4.

Petitioner confirmed that she sought CDC benefits for the employment need reason. Child care may be approved for parents who are employed or self-employed and receive money, wages, self-employment profits or sales commissions. At application, the Department is to verify the need for CDC benefits based on employment and can consider a copy of a work schedule indicating the number of hours worked, pay stubs indicating the number of hours worked, a MDHHS-38 verification of employment form completed by the employer, the Equifax Verification Services, a signed statement by the employer that contains employment begin date, number of hours the client works, dates and amounts of the client's paychecks, or a collateral contact with the employer if the other acceptable verification sources are unavailable. BEM 703, p.11-14.

In this case, Petitioner disputed the denial of her [REDACTED] 2022, CDC application. The Department representative testified that Petitioner was ineligible for CDC benefits because she did not have a valid need reason and was not employed at the time that she completed her application. The Department representative testified that she spoke with Petitioner on or around November 14, 2022, and asked Petitioner about any employment or potential employment. The Department representative testified that Petitioner did not indicate that she was employed or that she had an offer of employment. The Department representative testified that because Petitioner did not

meet the need criteria for CDC eligibility, the Department issued the November 15, 2022, Notice of Case Action, advising her of the denial of her application.

Petitioner testified that she had a potential job lined up at the [REDACTED] and had a job offer letter indicating that she was supposed to begin employment at the end of [REDACTED]. However, Petitioner's testimony as to when she received the letter was conflicting. While Petitioner testified being notified verbally that she was offered a job at the time she submitted her application, Petitioner testified later in the hearing that she received the offer letter on or around [REDACTED] 2022, or possibly around the time of Thanksgiving. It is noted that the application was denied on November 15, 2022, prior to the issuance of Petitioner's job offer letter. Furthermore, Petitioner failed to present the letter for review during the hearing thus, Petitioner's testimony was unsupported by any documentary evidence. Additionally, a review of the [REDACTED] 2022, application indicates that Petitioner failed to identify her job offer and failed to notify the Department that she expects to begin employment within the next month.

Therefore, upon review, the Department acted in accordance with Department policy when it denied Petitioner's CDC application, as at the time the application was submitted, Petitioner did not have a valid and verified need reason.

### **FAP/SER**

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.

The State Emergency Relief (SER) program is established by the Social Welfare Act, MCL 400.1-.119b. The SER program is administered by the Department (formerly known as the Department of Human Services) pursuant to MCL 400.10 and Mich Admin Code, R 400.7001-.7049.

In this case, the Department representative testified that Petitioner's SER application was denied, and she was disqualified from the FAP group because she was found to be in noncooperation with child support requirements with respect to Child A and again with respect to Child B. The Department notified Petitioner of the FAP disqualification and SER application denial by issuing the October 29, 2022, Notice of Case Action and the November 15, 2022, State Emergency Relief Decision Notice.

The custodial parents 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. Absent parents are required to support their children. Support includes **all** of the following: child support, medical support and payment for medical

care from any third party. Cooperation is required in all phases of the process to establish paternity and obtain support and includes contacting the support specialist when requested and providing all known information about the absent parent, among other things. BEM 255 (January 2020), pp. 1-2, 9-13. When OCS determines a client is in noncooperation, the Department will generate a notice closing the effective programs or reducing the client benefit amount in response to the determination. BEM 255, pp. 1-2. The noncooperation continues until a comply date is determined. BEM 255, pp. 9-13. For ongoing or active FAP cases, a failure to cooperate without good cause will result in member disqualification of the individual who failed to cooperate. BEM 255, p. 14. Any individual required to cooperate who fails to cooperate without good cause causes group ineligibility for a minimum of one month for FIP cases. BEM 255, pp. 9-13. The Department will not restore or reopen benefits for a disqualified member until the client cooperates. BEM 255, pp. 14-15. Additionally, groups that are non-cooperative with the OCS are also ineligible for SER. SER ineligibility continues as long as the group member fails or refuses to pursue potential resources. Sanctioned groups that are able to comply are ineligible for SER until they comply. ERM 203 (October 2018), p. 2.

The OCS representative presented the contact letters that were sent to Petitioner instructing her to contact OCS to provide information on the absent parent of Child A, and later, Child B. (Exhibit B). The OCS representative testified as to the telephone contacts made by Petitioner to OCS on October 21, 2022, October 26, 2022, November 4, 2022, November 14, 2022, and November 18, 2022. The information provided to OCS was summarized in the Explanation of Noncooperation Determination presented for review in Exhibit B. The OCS representative testified that despite Petitioner's contacts to OCS, Petitioner failed to present sufficient information regarding the absent fathers of Child A and Child B. As a result, the Department and OCS concluded that Petitioner continued to be in noncooperation with child support requirements.

At the hearing, Petitioner testified that Child A was conceived following a one night stand in Ohio. The information provided during the hearing was consistent with that which was provided to OCS and documented in the OCS contacts. With respect to Child B, Petitioner testified that she was unaware that the individual she previously reported was the father of the child had been genetically excluded. She testified that Child B was conceived in Detroit, also following a one night stand, but that Petitioner has no additional information about the father of Child B because it has now been four years. Petitioner testified that she provided OCS and the Department with all of the identifying information that she had available to her regarding the fathers of Child A and Child B.

Under the facts presented, the Department and the OCS have failed to establish that Petitioner had additional information regarding the fathers' identities that she failed to disclose, thereby, making her ineligible for SER and FAP benefits.

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 that Petitioner was in

noncooperation with child support requirements and subsequently denied her SER application and disqualified her from the FAP group.


### **DECISION AND ORDER**

Accordingly, the Department's decision is **AFFIRMED IN PART** with respect to the CDC and **REVERSED IN PART** with respect to SER and FAP.

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. Remove the child support noncooperation sanctions/disqualifications imposed on Petitioner's cases;
2. Recalculate Petitioner's FAP budget to include her as an eligible member of her FAP group for December 1, 2022, ongoing;
3. Register and process Petitioner's [REDACTED] 2022, SER application to determine her eligibility for SER benefits from the application date, ongoing;
4. Supplement Petitioner and/or her provider for any SER benefits that she was eligible to receive but did not from the application date, ongoing; and
5. Notify Petitioner in writing of its decisions.

ZB/ml

  
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**Zainab A. Baydoun**  
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 :**

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