



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
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Date Mailed: January 13, 2023
MOAHR Docket No.: 22-005482
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 19, 2022, from Detroit, Michigan. Petitioner appeared for the hearing and represented herself. The Department of Health and Human Services (Department) was represented by Shelia Hobbs, Eligibility Specialist. Fallon Myers, Lead Support Specialist appeared on behalf of the Office of Child Support (OCS).

ISSUE

Did the Department properly deny Petitioner's applications for Child Development and Care (CDC) and State Emergency Relief (SER) 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. On or around January 25, 2018, and February 4, 2018, the OCS sent Petitioner first and second contact letters instructing her to contact OCS and provide information on the absent parent of her children. On or around February 13, 2018, the OCS sent Petitioner a noncooperation notice advising her that she was found to be in noncooperation with child support requirements. (Exhibit A, pp. 24-38)
2. The Department placed Petitioner in noncooperation with child support requirements.
3. On or around [REDACTED] 2022, Petitioner submitted an application requesting CDC benefits. (Exhibit A, pp. 9-15)

4. On or around September 29, 2022, the Department sent Petitioner a Verification Checklist (VCL) instructing her to submit requested verifications by October 10, 2022. The VCL also instructed Petitioner to contact the OCS to comply with child support requirements. (Exhibit A, pp.16 – 17)
5. The Department asserted that on or around October 7, 2022, Petitioner was informed that she was in noncooperation with child support requirements and her CDC application will be denied if the noncooperation is not resolved. The case comments summary indicates that Petitioner verbally withdrew her CDC application in order to clear up the noncooperation status with OCS. (Exhibit A, pp.3, 18)
6. On or around October 7, 2022, the Department sent Petitioner a Notice of Case Action, advising her that her CDC application was denied because she requested that her assistance be stopped. (Exhibit A, pp.19 – 22)
7. On or around ██████████ 2022, Petitioner submitted an application requesting SER assistance with her past due electric bill.
8. On or around November 2, 2022, the Department sent Petitioner a State Emergency Relief Decision Notice, informing her that her SER application was denied because she failed to cooperate with child support requirements. (Exhibit B, pp. 5-7)
9. On or around ██████████ 2022, Petitioner submitted an application requesting CDC benefits and SER assistance with her past due electric bill.
10. On or around November 16, 2022, the Department sent Petitioner a State Emergency Relief Decision Notice, informing her that her ██████████ 2022, request for SER assistance with past due electric expenses was denied because she verbally withdrew her SER service request. (Exhibit B, pp. 2-4)
11. On or around November 16, 2022, the Department sent Petitioner a Notice of Case Action, advising her that her CDC application was denied because she requested that her assistance be stopped. (Exhibit B, pp.10-13)
12. On or around November 16, 2022, Petitioner requested a hearing disputing the Department's actions with respect to her CDC and SER applications. (Exhibit A, pp. 5-7)

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 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 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.

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.

A client's cooperation with paternity and obtaining child support is a condition of CDC eligibility. BEM 255, pp. 1, 9-13. At CDC application, the client has 10 days to cooperate with the OCS. The Department informs the client to contact OCS in the verification checklist (VCL). The disqualification is imposed if the client fails to cooperate on or before the VCL due date when the factors listed in BEM 255 at pp. 12-13 are true. See BEM 255, pp.8-13. For CDC cases, a failure to cooperate without good cause with the OCS requirements will result in group ineligibility for CDC. The Department will close or deny the CDC case when a child support non-cooperation record exists and there is no corresponding comply date. BEM 255, pp. 13-14. 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.

In this case, Petitioner requested a hearing disputing the denial of her CDC and SER applications. The Department representative testified that Petitioner's applications for CDC and SER were denied either because she verbally withdrew from the application process to resolve her noncooperation with child support requirements and/or because she failed to cooperate with child support requirements.

The OCS representative presented the contact letters that were sent to Petitioner in 2018 instructing her to contact OCS to provide information on the absent parent of children. The OCS representative testified as to the telephone contact made by Petitioner to OCS previously, and in connection with her more recent applications for assistance. The information provided to OCS was summarized in the Explanation of Noncooperation Determination presented for review. The OCS representative testified that despite Petitioner's contacts to OCS, Petitioner failed to present sufficient information regarding the absent father. As a result, the Department and OCS concluded that Petitioner continued to be in noncooperation with child support requirements. The Department testified that although case comments indicate Petitioner requested to withdraw from the application process, the applications should have and would have been denied due to a failure to cooperate with child support requirements.

At the hearing, Petitioner testified that the children, who are twins, were conceived following a one night stand and that she was drinking that night. Petitioner testified that she contacted her best friend who was with her that night to find out if she had any additional information on the father of the children, but her friend could not provide any information. She testified that she was at numerous bars that night and met several people. She indicated that the man was a short African-American man with braids and wore glasses but that she has no additional information on the father because it has now been five years. Petitioner testified that she provided OCS and the Department with all of the identifying information that she had available to her regarding the father of her children.

Under the facts presented, the Department and the OCS have failed to establish that Petitioner had additional information regarding the father's identity that she failed to disclose, thereby, making her ineligible for SER and CDC 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 and CDC applications.

DECISION AND ORDER

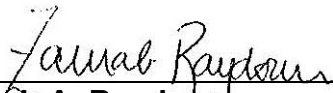
Accordingly, the Department's SER and CDC decisions are **REVERSED**.

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. Register and process Petitioner's [REDACTED] 2022, CDC application, [REDACTED] 2022, SER application, and [REDACTED] 2022, CDC and SER applications to determine her eligibility for CDC and SER benefits from the application dates, ongoing;
3. Supplement Petitioner and/or her provider for any CDC and SER benefits that she was eligible to receive but did not from the application dates, ongoing; and
4. Notify Petitioner in writing of its decisions.

ZB/ml



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 :

Department Representative
Office of Child Support (OCS)-MDHHS
201 N Washington Square
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