



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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██████████, MI ██████████

Date Mailed: February 14, 2023
MOAHR Docket No.: 23-000149
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Linda Jordan

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 on February 6, 2023. Petitioner appeared and represented herself. Manal Alawieh, Assistance Payments Worker, and Dania Ajami, Lead Worker, appeared on behalf of the Michigan Department of Health and Human Services (MDHHS or Department). Patricia Bregg, Lead Worker, and Joanna Zatelli, Worker, represented the Office of Child Support (OCS).

ISSUE

Did MDHHS properly deny Petitioner's application for Food Assistance Program (FAP) 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 August 10, 2018, OCS placed Petitioner into noncooperation status regarding child support because she failed to respond to a first contact letter sent on July 22, 2018 and a second contact letter on August 2, 2018 (Exhibit A, p. 7). OCS determined that Petitioner failed to provide identifying information about the absent parent (Exhibit A, p. 7). Also on August 10, 2018, OCS sent Claimant a Noncooperation Notice (Exhibit A, p. 18).
2. On ██████████, 2022, Petitioner applied for FAP benefits.

3. On November 9, 2022, MDHHS denied Petitioner's application for FAP benefits due to noncooperation with child support requirements.
4. On January 5, 2023, Petitioner filed a Request for a Hearing to dispute MDHHS' determination that she was ineligible for FAP benefits due to noncooperation with child support requirements (Exhibit A, pp. 3-4).

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 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. MDHHS administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011.

In this case, MDHHS denied Petitioner's FAP application on the basis that she failed to cooperate with child support requirements. As a condition of 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 (October 2022), p. 1. Failure to cooperate without good cause results in disqualification, which may include removing a group member or the denial or closure of program benefits. BEM 255, p. 2.

The record shows that OCS determined that Petitioner was noncooperative with child support requirements on August 10, 2018 (Exhibit A, p. 18). OCS testified that Petitioner was noncooperative because she failed to provide identifying information regarding her child's biological father. OCS also testified that Petitioner provided OCS with conflicting information. However, OCS could not provide a satisfactory explanation regarding what information was conflicting. Additionally, OCS testified that it had contact with Petitioner by phone on at least eight separate occasions.

Petitioner credibly testified that she had attempted in earnest to resolve this matter and that she provided OCS with all the information that she had regarding her child's potential biological father. She explained her partners at the time had used fake names and she did not have any of their contact information. She further testified that she called OCS on several occasions in an attempt to resolve this matter.

To be eligible for FAP, policy requires custodial parents to cooperate with OCS and provide all information available to them regarding non-custodial parents in order to establish paternity and/or obtain child support. Here, Petitioner testified that she was cooperating and that she provided OCS with all the information that she had. OCS did not provide any proof that Petitioner was withholding information about her child's biological father or that she provided inaccurate or incomplete information. MDHHS testified that it interviewed Petitioner regarding this matter at least eight times. Accordingly, the record shows that Petitioner was attempting to cooperate with OCS. Petitioner should not be penalized for failing to provide information that she did not possess. Therefore, OCS' determination that Petitioner was in noncooperation status was improper.

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 MDHHS failed to satisfy its burden of showing that it acted in accordance with Department policy when it denied Petitioner's application for FAP due to noncooperation with child support requirements.

DECISION AND ORDER

Accordingly, MDHHS' decision is **REVERSED**.

MDHHS 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 penalty applied to Petitioner's case on or about August 10, 2018;
2. Reregister Petitioner's [REDACTED] 2022 FAP application;
3. Determine Petitioner's eligibility for FAP benefits from October 11, 2022 ongoing;
4. Issue supplements to Petitioner for any FAP benefits that she was eligible to receive but did not, from [REDACTED], 2022 ongoing; and
5. Notify Petitioner of its decision in writing.



LJ/tm

Linda Jordan
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
Caryn Jackson
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12140 Joseph Campau
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**MDHHS-Wayne-55-
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Via-First Class Mail :

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