



GRETCHEN WHITMER  
GOVERNOR

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

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ACTING DIRECTOR

[REDACTED]  
[REDACTED], MI [REDACTED]

Date Mailed: September 29, 2023  
MOAHR Docket No.: 23-005117  
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 September 20, 2023. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Brian Roedema, supervisor, and Jeff Koteles, Office of Child Support (OCS) lead worker. Sara Lluberres, child support lead worker, observed the hearing.

### **ISSUE**

The issue is whether MDHHS properly continued a child support disqualification concerning Petitioner's Food Assistance Program (FAP) 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. On October 9, 2021, MDHHS imposed a child support disqualification penalty against Petitioner for failing to respond to multiple letters requesting the paternity of Petitioner's child, [REDACTED] [REDACTED] (hereinafter, "Child")
2. On June 16, 2022, Respondent called OCS and reported meeting a man at a club in Kissimmee, Florida who fathered Child. petitioner provided no information helpful to identify Child's father.

3. On December 5, 2022, Respondent called OCS and reported no additional information to identify Child's father.
4. On [REDACTED] 2023, Claimant applied for FAP benefits and reported a household including Child. Respondent additionally called OCS and reported no additional information to identify Child's father.
5. On August 22, 2023, Claimant called OCS to ask about good cause for non-cooperation. OCS attempted to interview client who reported that she had multiple one-night stands in many states and cannot state who Child's father was.
6. On August 22, 2023, MDHHS approved Petitioner for FAP benefits subject to Petitioner's being disqualified due to child support non-compliance.
7. On August 22, 2023, Petitioner requested a hearing to dispute being disqualified for FAP benefits.

### **CONCLUSIONS OF LAW**

The 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 the FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011. FAP policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing to dispute non-compliance with child support. Exhibit A, p. 4. Petitioner's hearing request followed an application for FAP benefits dated July 7, 2023. Exhibit A, pp. 5-11. A Notice of Case Action dated August 22, 2023, stated Petitioner was an ineligible group member for FAP benefits beginning August 2023 due to a failure to cooperate with obtaining child support for Child. Exhibit A, pp. 23-27.

Generally, the Office of Child Support (OCS) determines cooperation for required support actions.<sup>1</sup> 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:

- Contacting the support specialist when requested.
- Providing all known information about the absent parent.

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

- 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.*

For FAP, failure to cooperate without good cause results in disqualification of the individual who failed to cooperate. *Id.*, p. 14. The remaining group members are eligible. *Id.*

MDHHS alleged that Petitioner was uncooperative for failing to provide paternity information for Child. MDHHS testified Petitioner was disqualified as of October 9, 2021, after failing to respond to inquiries about Child's paternity. Petitioner eventually called OCS in June 2022 and reported that she had a one-night stand after meeting some friends in Florida. Petitioner could not provide any useful information to identifying the man. Petitioner reported comparable information to MDHHS on December 5, 2022, and July 7, 2023.

In *Black v Dept of Social Services*, 195 Mich App 27 (1992), the Court of Appeals addressed the issue of burden of proof in establishing child support non-cooperation. Specifically, the *Black* court ruled that to support a finding of non-cooperation, the agency has the burden of proof to establish that the mother failed to provide requested verification, and that the mother knew the requested information.

Petitioner cannot be disqualified for being uncooperative if she reported truthful information to OCS. OCS considered Petitioner's reporting to be improbable. OCS specifically cited Petitioner's lack of details in her reporting as evidence of falsely reporting. For example, Petitioner failed to provide the names of friends that she met in Florida. Petitioner's failure to identify friends would have been more compelling if MDHHS could have stated that the names of Petitioner's friends were requested.

MDHHS was bothered that Petitioner called OCS on August 22, 2023, concerning good cause. Generally, good cause for not cooperating is proper when providing paternal information would endanger the life of the mother or child. BEM 255 (April 2023) pp. 2-4. Good cause would only apply when the mother the name of a child's father. Petitioner reasonably explained her call as an effort to be compliant without understanding what good cause was other than it was a way to be compliant with child support.

Petitioner's reporting to OCS, by itself, was not particularly credible. However, MDHHS did not allege that Petitioner failed to provide reasonable information in which she was asked. More importantly, MDHHS did not establish that Petitioner was aware of information that was unreported.

Given the evidence, MDHHS failed to establish that Petitioner was uncooperative in obtaining child support. Given a hearing request date of August 22, 2023, Petitioner will be credited with her oldest effort in providing paternal information to OCS but within 90

days of the denial notice date of August 22, 2023.<sup>2</sup> The oldest date Petitioner tried to comply with child support within 90 days of August 22, 2023, was July 7, 2023. Thus, Petitioner should be credited with cooperating on the same date. Petitioner's cooperation as of July 7, 2023, renders the disqualification on August 22, 2023 to be improper.

### **DECISION AND ORDER**

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

- (1) Halt the child support disqualification against Petitioner beginning October 9, 2021, as of July 7, 2023.
- (2) Reregister and reprocess Petitioner's FAP application dated [REDACTED] 2023; and
- (3) Issue any benefit supplements and/or notices in accordance with policy.

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

CG/nr

  
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**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

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<sup>2</sup> Clients have 90 days from a date of written notice to request a hearing (see BAM 600).

**Via-Electronic Mail :**

**DHHS**

Kimberly Kornoelje  
Kent County DHHS  
121 Martin Luther King Jr St SE  
Grand Rapids, MI 49507

**MDHHS-Kent-  
Hearings@michigan.gov**

**Interested Parties**

Kent County DHHS  
OCS  
BSC3  
M. Holden  
D. Sweeney  
B. Sanborn  
MOAHR

**Via-First Class Mail :**

**Petitioner**

[REDACTED]  
[REDACTED]  
[REDACTED], MI [REDACTED]