



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

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

Date Mailed: August 9, 2022
MOAHR Docket No.: 22-002974
Agency No.: [REDACTED]
Petitioner: [REDACTED]

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 August 8, 2022 via teleconference. Petitioner appeared and represented herself. Raven Douthard, Hearings Facilitator, represented the Michigan Department of Health and Human Services (MDHHS or Department).

ISSUE

Did MDHHS properly determine that Petitioner was ineligible for Food Assistance Program (FAP) benefits due to noncooperation with child support requirements?

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 was an ongoing recipient of FAP.
2. On May 16, 2022, MDHHS received information from the Office of Child Support (OCS) that Petitioner was noncooperative with child support requirements and should be disqualified from receiving program benefits. MDHHS removed Petitioner from her FAP group.
3. On July 6, 2022, MDHHS sent Petitioner a Notice of Case Action indicating that she was approved for FAP benefits for a household of one, beginning July 1, 2022 (Exhibit A, p. 7). The FAP group included Petitioner's minor child, but excluded Petitioner (Exhibit A, pp. 7-8). The notice stated that Petitioner was excluded from

the group because she failed to cooperate with child support requirements (Exhibit A, p. 8).

4. On [REDACTED] 2022, Petitioner requested a hearing to dispute MDHHS' determination that she was ineligible for FAP due to a failure to cooperate with child support requirements (Exhibit A, p. 5).

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 determined that Petitioner was ineligible for FAP and excluded her from the FAP group due to a failure to cooperate with child support requirements. No representative from the Office of Child Support (OCS) appeared at the hearing. Thus, this decision is based on Petitioner's testimony, and the testimony and documents offered by the MDHHS representative.

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 (January 2020), 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. Cooperation is required in all phases of the process to establish paternity and obtain support. *Id.*, p. 10. Cooperation includes contacting the support specialist when requested, providing all known information about the absent parent, appearing at the office of the prosecuting attorney when requested and taking any actions needed to establish paternity and obtain child support (including but not limited to testifying at hearings or obtaining genetic tests). *Id.*

At the hearing, MDHHS testified that Petitioner was excluded from her FAP group in May 2022 because it received information from OCS that Petitioner was noncooperative with child support requirements, and thus should be disqualified from receiving FAP. Petitioner credibly testified that she had been in contact with a representative from OCS regarding the paternity of her child, that she had responded to all of OCS' requests for information and that she had given OCS all the information that she had regarding her

child's potential biological father. Petitioner testified that she did not know who the biological father was and that she gave OCS all information known to her regarding who the biological father could be.

No evidence was presented that Petitioner failed to respond to an OCS representative's request or that she failed to provide all known information about the paternity of her child. No evidence was presented that Petitioner failed to take any action needed to establish paternity or obtain child support. Therefore, MDHHS failed to establish that Petitioner was noncooperative with child support requirements.

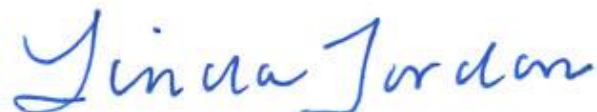
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the MDHHS failed to satisfy its burden of showing that it acted in accordance with Department policy when it disqualified Petitioner from receiving FAP benefits.

DECISION AND ORDER

Accordingly, MDHHS's 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 applied to Petitioner's case on or about May 16, 2022;
2. Include Petitioner as a qualifying member of her FAP group, effective May 16, 2022 ongoing;
3. Recalculate Petitioner's FAP benefits from May 16, 2022 ongoing based on the increased group size;
4. Issue supplements to Petitioner for FAP benefits she was eligible to receive but did not from May 16, 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 :

Department Representative
Office of Child Support (OCS)-MDHHS
201 N Washington Square
Lansing, MI 48933
**MDHHS-OCS-Admin-
Hearings@michigan.gov**

DHHS
Jeanenne Broadnax
Wayne-Taylor-DHHS
25637 Ecorse Rd.
Taylor, MI 48180
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Interested-Parties
M. Holden
D. Sweeney
BSC4
MOAHR

Via-First Class Mail :

Petitioner

_____, MI _____