



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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Date Mailed: December 21, 2022
MOAHR Docket No.: 22-005277
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Carmen G. Fahie

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 13, 2022. The Petitioner represented herself. The Department of Health and Human Services (Department) was represented by Leslie Voris, Family Independence Specialist (FIS). The Department submitted Department Exhibit 1, pgs. 1-11, that was admitted and made a part of the record.

ISSUE

Did the Department properly place the Petitioner in non-cooperation status with the Office of Child Support (OCS)?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. The Petitioner was a recipient of Food Assistance Program (FAP) and Child Development and Care (CDC) benefits.
2. On August 6, 2022, the Petitioner was found to be in non-compliance with OCS, which resulted in a decrease in FAP benefits and closure of her CDC case.
3. On September 8, 2022, the Department Caseworker sent the Petitioner a Notice of Case Action, DHS 1605, that her CDC was approved for 90 hours from July 3, 2022, to June 3, 2023, for two children and her FAP benefits were increased to \$459 a month for a household group composition of two for October 1, 2022, to May 31, 2023, due to failure to cooperate with OCS.

4. Subsequently, the Petitioner's request for good cause exemption of the child support sanction was denied because there was no proof of harm for the client or child.
5. On November 3, 2022, the Department Caseworker sent the Petitioner a Notice of Case Action, DHS 1605, that her CDC was closed effective November 20, 2022, due to failure to cooperate with OCS.
6. On November 4, 2022, the Petitioner filed a hearing request, contesting the Department's negative action.

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. 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 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.

In this case, the Petitioner was a recipient of FAP and CDC benefits. On August 6, 2022, the Petitioner was found to be in non-compliance with OCS, which resulted in a decrease in FAP benefits and closure of her CDC case. On September 8, 2022, the Department Caseworker sent the Petitioner a Notice of Case Action, DHS 1605, that her CDC was approved for 90 hours from July 3, 2022, to June 3, 2023, for two children and her FAP benefits were increased to \$459 a month for a household group composition of two for October 1, 2022, to May 31, 2023, due to failure to cooperate with OCS.

Subsequently, the Petitioner's request for good cause exemption of the child support sanction was denied because there was no proof of harm for the client or child. On November 3, 2022, the Department Caseworker sent the Petitioner a Notice of Case Action, DHS 1605, that her CDC was closed effective November 20, 2022, due to failure

to cooperate with OCS. On November 4, 2022, the Petitioner filed a hearing request, contesting the Department's negative action. BEM 205, 212, 255, and 500. BEM 220 and 600.

CHILD SUPPORT, BEM 255

DEPARTMENT PHILOSOPHY

Families are strengthened when children's needs are met. Parents have a responsibility to meet their children's needs by providing support and/or cooperating with the department, including the Office of Child Support (OCS), the Friend of the Court (FOC) and the prosecuting attorney to establish paternity and/or obtain support from an absent parent.

DEPARTMENT POLICY

Family Independence Program (FIP), Child Development and Care (CDC) Income Eligible, Medicaid (MA) and Food Assistance Program (FAP)

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.

Absent parents are required to support their children. Support includes **all** of the following:

- Child support.
- Medical support.
- Payment for medical care from any third party.

Note: For purposes of this item, a parent who does not live with the child due solely to the parent's active duty in a uniformed service of the U.S. is considered to be living in the child's home.

Complete the *Absent Parent Logical Unit of Work* and trio for any group member who has been or is currently a recipient of public assistance as a dependent child and had an absent parent.

Complete a new trio when the custodial parent/caretaker changes.

The summary will include all trios created for individuals who had an absent parent during an episode of assistance. This may include parents who were previously absent for a period of time an individual received assistance. This may include individuals who are now adults but the history of having an absent parent is necessary for the OCS to determine disbursement of arrearage payments that may be received.

Failure to cooperate without good cause results in disqualification. Disqualification includes member removal, as well as denial or closure of program benefits, depending on the type of assistance (TOA); see *support disqualification* in this item.

Note: When OCS, FOC or a prosecuting attorney determines a client is in cooperation or noncooperation the determination is entered in Bridges via a systems interface. When the client is in noncooperation, Bridges will generate a notice closing the affected program(s) or reduce the client benefit amount in response to the determination. A copy of the details regarding the cooperation or noncooperation can be requested by contacting the primary worker noted in the Child Support (CS) icon on the Absent Parent Child Link page.

Note: A pregnant woman who fails to cooperate may still be eligible for MA; see *MA member disqualification* in this item.

FIP

All rights to current and future court-ordered child support paid for a period of time a child receives FIP must be assigned to the state as a condition of FIP eligibility. See Assignment in this item for the types of child support payments that a FIP recipient is entitled to keep.

Court-ordered child support paid for a child receiving FIP on or after 1/1/2023 will be paid to the payee as a child support client participation payment (CPP).

Note: Custodial parents cannot waive family owed arrears while receiving FIP.

Spousal support included in a child support order must also be assigned; see *support assignment and certification* in this item.

**GOOD CAUSE
FOR NOT
COOPERATING**

FIP, CDC Income Eligible, MA and FAP

Exceptions to the cooperation requirement are allowed for all child support actions except when the recipient fails to return assigned child support payments received after the support certification effective date; see *support certification effective date* in this item.

**Informing
Families
about Good
Cause**

FIP, CDC Income Eligible, MA and FAP

Inform the individual of the right to claim good cause by giving them a DHS-2168, Claim of Good Cause - Child Support, at application, before adding a member and when a client claims good cause. The DHS-2168 explains all of the following:

- The department's mandate to seek child support.
- Cooperation requirements.
- The positive benefits of establishing paternity and obtaining support.
- Procedures for claiming and documenting good cause.
- Good cause reasons.
- Penalties for noncooperation.
- The right to a hearing.

Grant good cause **only** when both of the following are true:

- Requiring cooperation/support action is against the child's best interests.

- There is a specific good cause reason.

See the *good cause reasons* in this item.

Good Cause Reasons

FIP, CDC Income Eligible, MA and FAP

There are two types of good cause:

1. Cases in which establishing paternity/securing support would harm the child. Do **not** require cooperation/support action in any of the following circumstances:
 - The child was conceived due to incest or forcible rape.
 - Legal proceedings for the adoption of the child are pending before a court.
 - The individual is currently receiving counseling from a licensed social agency to decide if the child should be released for adoption, **and** the counseling has **not** gone on for more than three months.
2. Cases in which there is danger of physical or emotional harm to the child or client. Physical or emotional harm may result if the client or child has been subject to or is in danger of:
 - Physical acts that resulted in, or threatened to result in, physical injury.
 - Sexual abuse.
 - Sexual activity involving a dependent child.
 - Being forced as the caretaker relative of a dependent child to engage in non-consensual sexual acts or activities.
 - Threats of, or attempts at, physical or sexual abuse.
 - Mental abuse.
 - Neglect or deprivation of medical care.

Note: This second type of good cause may include instances where pursuit of child support may result in physical or emotional harm for a refugee family, or the absent parent of a refugee family, when the family separation was the result of traumatic or dangerous circumstances. This may also apply to individuals who are treated to the same extent as a refugee, including asylees and victims of trafficking.

Claiming Good Cause

FIP, CDC Income Eligible, MA and FAP

If a client claims good cause, both the specialist and the client must sign the DHS-2168. The client must complete Section 2, specifying the type of good cause and the individual(s) affected. Give the client a copy of the completed DHS-2168.

To prevent any support action while the good cause claim is pending, enter good cause status and claim date in the absent parent logical unit of work and file the DHS-2168 in the case **within two working days of completion**. A claim may be made at any time. The FIS/ES specialist is responsible for determining if good cause exists. Do **not** deny an application or delay program benefits just because a good cause claim is pending.

A good cause claim must do all of the following:

- Specify the reason for good cause.
- Specify the individuals covered by it.
- Be supported by written evidence or documented as credible.

Evidence and Credibility of Good Cause

Request the client provide evidence of good cause within 20 calendar days of claim. Allow an extension of up to 25 calendar days if the client has difficulty obtaining the evidence.

Note: Change the Verification Check List (VCL) due date in Bridges manually, to extend the due date of verification.

Assist clients in obtaining written evidence if needed. Place any evidence in the case record. See *verification sources* in this item for examples of acceptable evidence.

If written evidence does **not** exist, document why none is available and determine if the claim is credible. Base credibility determination on available information, including client statement and/or collateral contacts with individuals who have direct knowledge of the client's situation.

Verification of good cause due to domestic violence is required only when questionable.

Determining Good Cause

FIP, CDC Income Eligible, MA and FAP

Make a good cause determination within 45 calendar days of receiving a signed DHS-2168 claiming good cause. The OCS can review and offer comment on the good cause claim before you make your determination. Exceed the 45-day limit **only if** all of the following apply:

- The client was already granted an additional 25-day extension to the original 20-day limit.
- More information is needed that **cannot** be obtained within the 45-day limit.
- Supervisory approval is needed.

Document extensions in the case record.

One of three findings is possible when making a determination:

- Approved - Continue with Child Support Action.

Example: Court order is already established and client participation is no longer necessary to pursue support.

- Approved - Discontinue or do not initiate Child Support Action; this applies when there is a risk to the child or custodial parent/caretaker or there is an existing child support order.

- Denied - Good cause does not exist; this applies if the family does not present criteria that meets good cause or there was no convincing evidence of risk.

All good cause determinations must be:

- Approved by a specialist's supervisor.
- Reviewed at every redetermination if subject to change.
- Documented on the DHS-2169, Notice of Good Cause Decision **and** a copy must be placed in the case record.
- Entered in the absent parent logical unit of work to include status, claim date, and begin date when approved. End date is entered when applicable.

COOPERATION

FIP, CDC Income Eligible, MA and FAP

Cooperation is a condition of eligibility. The following individuals who receive assistance on behalf of a child are required to cooperate in establishing paternity and obtaining support, unless good cause has been granted or is pending:

- Grantee (head of household) and spouse.
- Specified relative/individual acting as a parent and spouse.
- Parent of the child for whom paternity and/or support action is required.

Cooperation is required in all phases of the process to establish paternity and obtain support. It includes **all** of the following:

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

**Support
Specialist
Determines
Cooperation**

FIP, CDC Income Eligible, MA and FAP

The support specialist determines cooperation for required support actions. The date client fails to cooperate will be populated in the absent parent logical unit of work and negative action is applied the same night automatically; see *support disqualification*.

Exception: Determine non-cooperation for failure to return assigned support payments received after the support certification effective date; see *FIS determines cooperation* in this item.

Cooperation is assumed until negative action is applied as a result of non-cooperation being entered. The non-cooperation continues until a comply date is entered by the primary support specialist or cooperation is no longer an eligibility factor. The comply date will be populated in the absent parent logical unit of work and the mandatory member will be added to active MA and FAP EDG the same night automatically; see *removing a support disqualification* in this item.

**FIS
Determines
Cooperation**

FIP Only

Determine non-cooperation for failure to return assigned support payments received after the support certification effective date; see *support certification effective date* in this item.

The individual is considered non-cooperative when they have received assigned support payments directly for a **second** calendar month after the certification effective date **and** failed to return them to the department.

Note: The two calendar months need not be consecutive.

Start the disqualification procedure; see *support disqualification* in this item.

Cooperation exists when the client returns subsequent assigned support payments or an over issuance claim has been established and certification of support has occurred; see *removing a support disqualification* in this item.

SUPPORT DISQUALIFICA TION

FIP, CDC Income Eligible, MA and FAP

Bridges applies the support disqualification when a begin date of non-cooperation is entered and there is no pending or approved good cause. The disqualification is not imposed if any of the following occur on or before the timely hearing request date; see BAM 600, Hearings:

- OCS records the comply date.
- The case closes for another reason.
- The non-cooperative client leaves the group.
- Support/paternity action is no longer a factor in the child's eligibility (for example, the child leaves the group).
- Client cooperates with the requirement to return assigned support payments to DHS and the support is certified.
- Client requests administrative hearing.

Note: Reinstatement of FIP and income-eligible CDC is necessary to prevent the disqualification from being applied when an administrative hearing is requested timely.

Note: CDC Disqualification

Note: CDC Income Eligible

Note: Failure to cooperate without good cause, with Office of Child Support requirements for a child requesting or receiving benefits will result in group ineligibility for CDC. Bridges will close or deny the CDC EDG when a child support non-cooperation record exists and there is no corresponding comply date.

**FAP Member
Disqualification**

FAP

Failure to cooperate without good cause results in disqualification of the individual who failed to cooperate. The individual and his/her needs are removed from the FAP EDG for a minimum of one month. The remaining eligible group members will receive benefits.

Budgeting Last FIP Grant on FAP When FIP Closes

When FIP closes due to child support non-cooperation and the non-cooperating individual has a FAP EDG participation status of eligible or disqualified, Bridges counts the last FIP grant amount in the FAP budget for **one month**.

Note: The last FIP grant amount is the monthly grant amount the individual received immediately before FIP closed.

Bridges removes the last FIP grant amount from the FAP budget after it has been budgeted for one month.

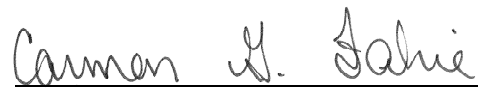
During the hearing, the Petitioner stated that she got drunk and had a one-night stand. She is unable to establish paternity and say who the father of her child is. The Department requires the Petitioner to establish paternity in order to be eligible for Department benefits. This Administrative Law Judge finds that the Department properly determined that the Petitioner was in noncompliance with the OCS without good cause based on Department policy and procedures. As a result, the Petitioner had a decrease in FAP benefits and the closure of her CDC case.

DECISION AND ORDER

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 acted in accordance with Department policy when it determined that the Petitioner was in noncompliance with OCS, which resulted in a decrease in FAP benefits and the closure of her CDC case.

Accordingly, the Department's decision is **AFFIRMED**.

CF/cc

A handwritten signature in cursive script, reading "Carmen G. Fahie", written in black ink.

Carmen G. Fahie
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 :

Interested Parties

MDHHS-OCS-Admin-Hearings
MDHHS-Hillsdale-Hearings
BSC4-HearingDecisions
MOAHR

Via-First Class Mail :

Petitioner

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[REDACTED] MI [REDACTED]