



GRETCHEN WHITMER
GOVERNOR

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

MARLON I. BROWN, DPA
ACTING DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: January 23, 2024
MOAHR Docket No.: 23-009353
Agency No.: [REDACTED]
Petitioner: [REDACTED] [REDACTED]

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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 January 18, 2024, from Lansing, Michigan. [REDACTED] [REDACTED] the Petitioner, appeared on her own behalf. The Department of Health and Human Services (Department) was represented by Robert Valdez, Eligibility Specialist. Jessica Rush, Lead Worker, Office of Child Support (OCS), appeared as a witness for the Department.

During the hearing proceeding, the Department's Hearing Summary packet was admitted as Exhibit A, pp. 1-44.

ISSUE

Did the Department properly determine Petitioner's eligibility for Food Assistance Program (FAP) and Child Development and Care (CDC) 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 January [REDACTED] 2022, OCS issued a first contact letter to Petitioner regarding child NDE. (Exhibit A, pp. 33- 37; OCS Lead Worker Testimony)
2. On February [REDACTED] 2022, OCS issued a second contact letter to Petitioner regarding child NDE. (Exhibit A, pp. 38-41; OCS Lead Worker Testimony)

3. Petitioner was placed into noncooperation status on February ■■■ 2022 and a non-cooperation letter was issued to her. (Exhibit A, pp. 32 and 42-44; OCS Lead Worker Testimony)
4. Petitioner's household was receiving FAP for a household size of six (Petitioner's children) and Petitioner was considered a disqualified adult based on non-cooperation with child support requirements. (Exhibit A, pp. 21 and 26-29)
5. On November ■■■ 2023, Petitioner applied for CDC benefits. (Exhibit A, pp. 18-25)
6. On November ■■■ 2023, Petitioner contacted OCS but did not provide sufficient identifying information regarding the father of NDE. (Exhibit A, p. 32; Lead Worker OCS Testimony)
7. There had also been a noncooperation issued regarding Petitioner's twins. When Petitioner provided a name for the father of the twins on November ■■■ 2023, she was considered in cooperation status as of that date regarding those children while the Department followed up on the new information. (OCS Lead Worker Testimony)
8. On November ■■■ 2023, a Notice of Case Action was issued denying CDC benefits because Petitioner was in non-cooperation status with OCS¹. (Exhibit A, pp. 1 and 14-17)
9. On December ■■■ 2023, a Notice of Case Action was issued stating that FAP was approved for Petitioner's household, however, FAP was denied for Petitioner because she failed to cooperate with OCS. (Exhibit A, pp. 6-11)
10. On December 8, 2023, Petitioner filed a hearing request contesting the Department's determinations regarding FAP and CDC benefits. (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. 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.

¹ It appears that the denial reason listed on the November 21, 2023 was incorrect. The Notice indicates that Petitioner requested assistance be stopped. However, the Hearing Summary and testimony of the Department's witnesses indicates the denial was based on the non-cooperation status with OCS.

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.

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. Bridges Eligibility Manual (BEM) 255, July 1, 2023, p. 1.

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, p. 1.

Cooperation is a condition of eligibility for both FAP and CDC. For CDC, failure to cooperate without good cause results in group ineligibility for CDC benefits. For FAP, failure to cooperate without good cause results in disqualification of the individual who failed to cooperate. BEM 255 pp. 2, 9-10, and 14-15.

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; and 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; and taking any actions needed to establish paternity and obtain child support (including but not limited to testifying at hearings or obtaining genetic tests). BEM 255 pp. 9-10.

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. BEM 255 p. 11.

There are two types of good cause: (1) cases in which establishing paternity/securing support would harm the child, and (2) cases in which there is danger of physical or emotional harm to the child or client. BEM 255 p. 4.

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. BEM 255 p. 5.

In this case, Petitioner was placed into noncooperation status on February ■ 2022 regarding child NDE. (Exhibit A, pp. 32 and 42-44; OCS Lead Worker Testimony). Petitioner's household received FAP for a household size of six (Petitioner's children) and Petitioner was considered a disqualified adult based on non-cooperation with child support requirements. (Exhibit A, pp. 6-11, 21 and 26-29).

On November ■ 2023, Petitioner applied for CDC benefits. (Exhibit A, pp. 18-25). On November ■ 2023, Petitioner contacted OCS but did not provide sufficient identifying information regarding the father of NDE. (Exhibit A, p. 32; Lead Worker OCS Testimony). Therefore, on November ■ 2023, a Notice of Case Action was issued denying CDC benefits because Petitioner was in non-cooperation status with OCS². (Exhibit A, pp. 1 and 14-17). During the hearing it was confirmed that there had been no good cause claim. (OCS Lead Worker Testimony).

The OCS notes from the November ■ 2023 contact with Petitioner regarding child NDE document that Petitioner reported a potential name for the father of this child, but she stated she met him in passing and it may be a fake name. Petitioner stated he did not have a car, but he would always come to her. Petitioner did not know where he lives or where he is from, and she has no phone number. Petitioner remained in noncooperation status after providing this information because it was not enough information to identify the father of this child. (OCS Lead Worker Testimony).

Petitioner was aware of the issues with OCS regarding the twins and child NDE. Petitioner explained that the name she provided OCS for the potential father of NDE is the name she has, but it could be a fake name. Petitioner asserted that she is trying to cooperate and would like to have benefits while they try to figure out who the father of NDE is. Petitioner is otherwise stuck at home with the children 24/7 without childcare and cannot get a job. Petitioner cannot afford childcare. Petitioner stated she does anything the Department asks her to do and gives them all the information she has. (Petitioner Testimony)

However, it appears that there may be more information Petitioner could have provided to OCS. For example, during the hearing Petitioner's testimony indicated she used to have contact with the potential father of NDE, but they are no longer speaking. Petitioner used to talk with him on the phone, but stated she no longer has his phone number. Accordingly, it appears that the potential father is someone she had more contact with than just meeting him in passing. There may be additional measures Petitioner could try to provide additional information to OCE. For example, if available, Petitioner may be able to review her phone records to find the phone number for the potential father from when she used to talk with him on the phone.

Ultimately, Petitioner has not provided sufficient information to OCS regarding the father of child NDE. Further, there was no evidence that Petitioner has claimed good cause

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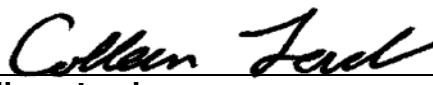
based on either: establishing paternity/securing support would harm the child, or there is danger of physical or emotional harm to the child or client. While Petitioner remains in noncooperation status, she is not eligible for FAP or CDC benefits.

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 acted in accordance with Department policy when it determined Petitioner's eligibility for FAP and CDC benefits.

DECISION AND ORDER

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

CL/dm



Colleen Lack
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
MDHHS-OCS-Admin-
Hearings@michigan.gov

DHHS
Pam Farnsworth
Monroe County DHHS
MDHHS-Monroe-
Hearings@michigan.gov

HoldenM

DensonSogbakaN

Brewer-WalravenL

BSC4HearingDecisions

MOAHR

Via-First Class Mail :

Petitioner

[REDACTED]
[REDACTED]
[REDACTED]