

**STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS & RULES
FOR THE DEPARTMENT OF HUMAN SERVICES**

IN THE MATTER OF:

DHS Req. No: 2008-27735
SOAHR Docket No. 2008-28360 REHD
Case No: [REDACTED]
Load No: [REDACTED]

[REDACTED]
Claimant

RECONSIDERATION DECISION

This matter is before the undersigned Administrative Law Judge (ALJ) pursuant to MCL 24.287(1) and 1993 AACRS R 400.919 upon the request of the Department for reconsideration due to newly discovered evidence.

ISSUE

Did the Administrative Law Judge properly order the Department to reinstate FIP and MA back to the date of closure and issue supplemental benefits?

FINDINGS OF FACTS

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

1. On August 4, 2008, ALJ Colleen Mamelka issued a Hearing Decision in which the ALJ reversed the Department of Human Services' (DHS) closure of Claimant's FIP and MA benefits.
2. On August 13, 2008, the State Office of Administrative Hearings and Rules (SOAHR) for the Department of Human Services (DHS) received a Request for Rehearing/Reconsideration submitted by DHS.
3. On September 11, 2008, SOAHR granted the Claimant's Request for Rehearing/Reconsideration and issued an Order for Reconsideration.
4. Findings of Fact 1-11 from the Hearing Decision, mailed on August 7, 2008 are hereby incorporated by reference.

CONCLUSIONS OF LAW

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 8 USC 601, *et seq.* The Department of Human Services (formerly known as the Family Independence Agency) administers the FIP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3101-3131. The FIP program replaced the Aid to Dependent Children (ADC) program effective October 1, 1996. Department policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Family Independence Agency (FIA or agency) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 4000.105; MSA 16.490 (15). Agency policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM), and the Program Reference Manual (PRM).

In the present case the Department closed Claimant's FIP and MA on May 13, 2008, because Claimant was no longer living with an eligible child pursuant to PEM 210. At the time of the negative action Claimant was residing in a substance abuse treatment center (SATC). The Department determined that Claimant's residence there meant that she was no longer "living with" the child and was not "temporarily absence". However, under PEM 210 persons in an SATC are considered "temporarily absence" and therefore Claimant continued to "live with" the child for the purposes of the FIP and MA programs.

The ALJ correctly determined that the Department's closure of the FIP and MA cases for this reason was contrary to Department policy and was in error. The ALJ correctly ordered that Claimant's FIP and MA cases be reinstated and that Claimant receive supplemental benefits lost as a result of the closure.

It should be noted that ALJ Mamelka did not specifically order the Department to grant benefits to Claimant for the month of June 2008. Judge Mamelka ordered the Department to issue supplemental benefits Claimant was entitled to receive "as a result of the improper closure" The Department is still free to determine what benefits the Claimant is entitled to receive so long as that determination is not based upon the original closure. This does not effect a subsequent determination and action by the Department to find her ineligible to received benefits and close Claimant's case again. The Department may, for example, find subsequent to the hearing, that Claimant had excess income or assets and therefore Claimant would not be entitled to benefits on that basis. The ALJ's decision would not effect this determination and the subsequent denial of benefits. The ALJ here determined that the closure based on the Claimant's residence in an SATC was in error. This does not mean that all other negative actions

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that the Department might make would be precluded. Alleged ineligibility based on the child living with the father is another issue. The Department is free to make an eligibility decision affecting Claimant's benefits for the period in question if the reason for that action **does not involve Claimant's absence from the home due to Claimant's residence in an SATC.**

DECISION AND ORDER

This Administrative Law Judge, based on the above findings of fact and conclusion of law, decides that the Administrative Law Judge correctly reversed the Department's negative action and ordered reinstatement of Claimant's FIP and MA cases. The ALJ correctly ordered that Claimant receive supplemental benefits lost as a result of the closure.

IT IS THEREFORE ORDERED:

That the Administrative Law Judge's decision mailed August 7, 2008 on the issue of FIP and MA is UPHELD.

/s/
Rhonda Craig
Administrative Law Judge
for Michigan Department of Human Services

Date Signed: May 5, 2009
Date Mailed: May 7, 2009

cc:

[REDACTED]

***** NOTICE *****

The Appellant may appeal this Rehearing Decision to Circuit Court within 30 days of the mailing of this Rehearing Decision.