

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF: [REDACTED]

Claimant

Reg. No: 2008-29219

Issue No: 1021

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

October 21, 2009

Jackson County DHS

ADMINISTRATIVE LAW JUDGE: Colleen Lack

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9; and MCL 400.37 upon claimant's request for a hearing. After due notice, a telephone hearing was held on October 21, 2009. Claimant appeared and testified. Pat Rand, FIM, appeared on behalf of the department.

ISSUE

Did the Department of Human Services (department) properly close claimant's Family Independence Program (FIP) benefits because there was no longer a plan for the children to return to the home?

FINDINGS OF FACT

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

(1) Claimant was an ongoing recipient of FIP benefits based on a plan to return her children to the home.

(2) A petition was filed by Children's Protective Services to terminate claimant's parental rights.

(3) The department was notified by the Children's Protective Services worker that there was no longer a plan in place to return the children to the home.

(4) On February 2, 2008, the department closed the FIP benefits.

(5) On February 28, 2008, claimant filed a hearing request to contest the FIP determination; however this hearing request has been lost.

(6) Claimant notified the department that not all of her children were listed on the petition for termination of parental rights and requested the FIP benefits be reinstated.

(7) The Department contacted the Protective Services Supervisor, who indicated the omission of the 15 year old from the petition was a mistake and that the petition would be amended to include this child.

(8) On May 29, 2008, the department contacted the DHS policy unit for a clarification on the determination to close the FIP benefits. (Department Exhibit 1)

(9) On May 30, 2008, the department's policy unit responded that the omission on the petition does not affect whether or not the plan is for reunification. Therefore, FIP eligibility ended when the services worker notified the department there was no longer a plan for reunification. (Department Exhibit 1)

(10) Claimant filed a second hearing request to contest the FIP determination on July 10, 2008.

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 (DHS or department) 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).

Group composition is the determination of which persons living together are included in the FIP program group and the eligible group. (PEM 210) To be eligible for FIP, typically a child must live with a caretaker. However, under specified circumstances a group may be composed of only adults. Groups with no eligible child include a parent(s) or parent and stepparent of a dependent child in out-of-home foster care due to abuse and/or neglect when there is a plan to return the child to the parent's home. Eligibility based on this policy is allowed for up to one year. PEM 210. The Children's Protective Services (CPS) or the foster care worker will verify that there is a plan for reunification with the parent at application and redetermination. PEM 210.

In the present case, claimant was receiving FIP benefits based upon a plan to return her children to the home. The services worker notified the department that there was no longer a plan to return any children to the home and the department closed the FIP benefits case. Claimant argued that the petition filed to terminate her parental rights did not list one of the children and therefore her FIP benefits should not have closed. However, as noted in the emailed policy clarification, the petition for termination was not what ended FIP eligibility under PEM 210. The claimant's FIP eligibility ended with the services worker's indication that there was no longer a plan to return any children to the home, regardless of the error on the petition.

Claimant also argued the services worker filed the petition to terminate her parental rights to get back at the claimant. Claimant testified there was a change in the Judge who presided over the petition to terminate her rights causing delays in the disposition of that case, however, the

new Judge eventually threw out the petition to terminate claimant's parental rights. Claimant therefore argued that since the petition was properly filed and her parental rights were never actually terminated, she should have remained eligible for FIP benefits.

Department policy does not indicate that retaining parental rights is sufficient to qualify for FIP benefits. Regardless of the services worker's motives for filing the petition to terminate claimant's parental rights, and the outcome of that case, FIP eligibility under PEM 210 requires there to be a plan in place to return the child/children to the parent's home. When the FIP benefits were opened, there was a plan in place and claimant was working toward having the children return to her home. However, that plan ended when the services worker filed the petition to terminate claimant's parental rights. Claimant testified that a plan was never put back into place to return any children to her home after the services worker filed the original petition to terminate her parental rights and that to date none of the children have returned to her home.

Based upon the foregoing facts and relevant law, it is found that the department followed applicable policy in closing claimant's FIP benefits upon notification by the services worker that there was no longer a plan to return any children to claimant's home.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that claimant was no longer eligible for FIP benefits once there was no longer a plan to return any children to her home.

Accordingly, the department's FIP determination is AFFIRMED.

/s/

Colleen Lack
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: October 30, 2009

Date Mailed: October 30, 2009

NOTICE: Administrative Hearings may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. Administrative Hearings will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the mailing of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the mailing date of the rehearing decision.

CL/cv

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