

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: 2009-10801

Issue No: 1003

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

March 25, 2009

Oakland County DHS

ADMINISTRATIVE LAW JUDGE: Jeanne M. VanderHeide

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 hearing was conducted in Detroit, Michigan on March 25, 2009. The Claimant appeared and testified. [REDACTED] appeared on behalf of the Department.

ISSUE

Whether the Claimant failed to cooperate with the Department resulting in the retroactive denial of the Claimant's FIP application.

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 had active MA and FAP cases open.
2. Claimant subsequently applied for FIP benefits.
3. Claimant's FIP application was forwarded to the JET manager.

4. On 7/28/08, [REDACTED] from the office of Child Support, sent Claimant a non cooperation notice. (Exhibit 1, p. 1).
5. Claimant testified that she responded to the Office of Child Support and explained to [REDACTED] that she did not know the identity of the father of her child.
6. The Department presented no testimony or evidence that Claimant knows the identity of the father of her child.
7. The 7/28/08 non cooperation notice was forwarded to a caseworker other than Claimant's caseworker, and as a result, the Department did not timely place it in Claimant's case file.
8. The Department then opened a FIP case for Claimant in December of 2008.
9. Claimant's case worker finally received the notice of non cooperation on 1/7/09.
10. A negative action was entered in the case on 1/21/09.
11. FIP benefits were paid to Claimant for December and January.
12. Claimant is not currently receiving any benefits.
13. On January 12, 2009, the Department received the Claimant's written request for a hearing protesting the negative action.

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, formally 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").

Clients 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. PEM 255, p. 1 Failure to cooperate without good cause results in disqualification. PEM 255, p. 1 If good cause exists, cooperation is excused as an eligibility requirement for the child involved. PEM 255, p. 2

The Claimant's FIP application was retroactively denied based upon the 7/28/08 non-cooperation notice. The Claimant testified credibly, that she does not know the identity of the father. The Claimant contacted the Office of Child Support and spoke with [REDACTED] in an effort to resolve the alleged non-cooperation. The Department did not present any evidence to indicate that Claimant knows the identity of the father. Therefore, there was no evidence presented that the Claimant failed to cooperate with any of Department's requests. Under this scenario, the Department's closure of the Claimant's FIP case is not upheld.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department improperly retroactively denied Claimant's FIP application.

Accordingly, it is ORDERED:

1. The Department's closure of the Claimant's FIP application is REVERSED.
2. The Department shall reopen the Claimant's application and supplement the Claimant for any lost benefits she was otherwise entitled to receive in accordance with department policy.

3. The Department shall reinstate Claimants MA and FAP benefits and supplement the Claimant for any lost benefits she was otherwise entitled to receive in accordance with Department policy.
4. The negative action of 1/21/09 shall be removed.

/s/

Jeanne M. VanderHeide
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 04/07/09

Date Mailed: 04/07/09

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 receipt date of the rehearing decision.

JV/dj

cc:

[Redacted]