

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: 2009-12639
Issue No: 1003
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
May 11, 2009
Wayne 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 telephone hearing was conducted in Detroit, Michigan on May 11, 2009. The Claimant appeared and testified. Kimberly Rollings, FIM appeared on behalf of the Department.

ISSUE

Whether the Claimant failed to cooperate with the Department in identifying the noncustodial parent resulting in the removal of the Claimant from the FIP and FAP group.

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 FIP and FAP cases open.
2. Claimant was contacted by the Office of Child support in December 2008.
3. Claimant testified that she responded to the Office of Child Support in December 2008 and gave the Child Support Specialist the father's name, birthdate, social security number, description, and last known address (prison).

4. Claimant testified that she did not hear anything else from the Office of Child Support.
5. On 7/28/08, the office of Child Support sent Claimant a non cooperation notice which indicates that Claimant was non-cooperative because of “your failure to respond to two letters to contact this office . . . In addition, you failed to provide me with identifying information about the non-custodial parent, such as full legal name, date of birth, Social Security number, last-known address, last known employer and physical description. (Exhibit 1, p. 1).
6. No testimony was offered from anyone at the Office of Child Support.
7. A negative action was entered in the case on 1/27/09.
8. Claimant’s benefits have been affected since February 2009.
9. On January 26, 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 testified credibly that that she contacted the Child Support Specialist at the Michigan Office of Child Support in December of 2009 and provided the requested information. The Department did not present any evidence to indicate why a letter of noncompliance was sent out or to contradict Claimant's testimony. Accordingly, the Department's removal of the Claimant from the FAP and FIP cases for noncompliance 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 removed Claimant from the FAP and FIP groups for noncooperation.

Accordingly, it is ORDERED:

1. The Department's removal of the Claimant from the FAP and FIP groups 2/09 through the present is REVERSED.
2. The Department shall delete the negative action of 1/27/09, recalculate Claimant's FIP and FAP benefits from 2/09 through the present and supplement the Claimant for any lost benefits she was otherwise entitled to receive in accordance with department policy.

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

Date Signed: 05/19/09

Date Mailed: 05/19/09

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.

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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:

