

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: 2009-15867
Issue No: 1005
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
April 28, 2009
St. Clair County DHS

ADMINISTRATIVE LAW JUDGE: Robert J. Chavez

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 held on April 28, 2009.

ISSUE

Was the claimant's FIP grant properly closed for failure to provide verifications?

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 FIP recipient in St. Clair County.
- (2) On 12-10-08, claimant applied for SER assistance.
- (3) On the SER application, claimant listed [REDACTED] as living in the home.

(4) [REDACTED] had been receiving [REDACTED] of [REDACTED] every two weeks.

(5) DHS noted that [REDACTED] was the father of one of claimant's children, but was not on the FIP grant.

(6) On 12-10-08, a DHS-3503, Verification Checklist, was sent to claimant requesting [REDACTED]' birth certificate so that he could be added to the case.

(7) Claimant did not return this verification.

(8) [REDACTED] was also scheduled to attend JET orientation.

(9) [REDACTED] did not go to JET orientation, and as a result of the noncompliance and triage, claimant was sanctioned from FIP.

(10) As a result of a failure to return verifications, claimant's case was closed on 12-31-08.

(11) Claimant requested a hearing on 12-30-08, alleging that the actions taken against her case were unfair.

(12) At the hearing, the Department agreed that it could not sanction claimant and [REDACTED] if [REDACTED] could not be added to the case for failure to provide verifications, and because claimant's case should have already closed for a failure to provide these verifications.

(13) The Department agreed to drop the sanction against the claimant in this case for [REDACTED]' failure to attend JET.

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).

When cash assistance is requested for a dependent child, the child's legal parents, if they're in the same household, must be in the FIP program group. PEM 210.

To be eligible for FIP or SDA a person must be a U.S. citizen or an alien admitted to the U.S. under a specific immigration status. U.S. citizenship must be verified with an acceptable document to receive FIP or SDA. PEM 225. This is typically verified by a U.S. Passport or a birth certificate showing the place of birth.

A person who is unable to obtain verification **or refuses to cooperate** in obtaining it must be disqualified; however, **others living with a person disqualified by this requirement can qualify for program benefits.** The disqualified person's assets and income might have to be considered based on the program requested. PEM 225.

In the current case, claimant does not dispute that [REDACTED] refused to provide a copy of his birth certificate to DHS; according to claimant, [REDACTED] wanted nothing to do with the Department, and was only providing claimant a temporary place to live. According to the Department, this verification was the only verification at issue in the case.

However, the regulations cited above clearly state that the correct action was not to disqualify claimant and her children from FIP and close the grant; the correct action was to disqualify Mr. Thelmas from the FIP grant, and budget his unemployment income into the grant.

Therefore, the Department was incorrect when it stated that claimant could be cut off of her grant for [REDACTED] failure to verify his citizenship.

However, claimant's negative action notice, and Department Exhibit 1, Hearing Summary, both indicate that claimant was also removed from her FIP grant for excess income, resulting from [REDACTED] every two weeks. As the regulations state that this income can be factored in, this action was therefore correct.

Finally, it should be noted that claimant testified that she moved out of [REDACTED] home shortly after the negative action notice; because of this circumstance, full case closure was not required. PEM 518 states:

Case closure is **not** required if **all** the following conditions exist:

- Ineligibility will exist for only one month because the conditions resulting in excess income are **not** expected to recur in the following month.
- The group is currently active for FIP or SDA.
- The group failed the deficit test

The Department closed the claimant's case completely after claimant did not return [REDACTED] birth certificate; however, claimant moved out of [REDACTED] home shortly after the closure. Because he was no longer in the home, [REDACTED] income would no longer count against the claimant. Therefore, the temporary ineligibility provisions would apply, and claimant's case should only have been closed until she left [REDACTED] house.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department's decision to cut off claimant's FIP grant because claimant did not provide verifications was incorrect. The Department's decision to cut off claimant's FIP grant for excess income was correct. The Department's decision to close claimant's case completely instead of using the Temporary Ineligibility provisions of PEM 518 was incorrect.

Accordingly, the Department's decision in the above-stated matter is, hereby,
AFFIRMED in part, and REVERSED in part.

The Department is ORDERED to restore claimant's FIP grant retroactive to the date
claimant left [REDACTED] house, and therefore, became eligible for FIP again.

/s/

Robert J. Chavez
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: May 4, 2009

Date Mailed: May 5, 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 receipt date of the rehearing decision.

RJC/cv

cc:

[REDACTED]