

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: 200924514
Issue No: 1010; 6027
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
July 8, 2009
Jackson 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 July 8, 2009.

ISSUE

Has the Department of Human Services (DHS) correctly failed to process claimant's FIP and CDC 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 applied for FIP and CDC on February 12, 2009.
- (2) On March 13, 2009, after interactions with the claimant, Department sent claimant a DHS-3503, Verification Checklist, requesting verification of all income from the claimant.

- (3) Claimant did not return the verifications by the due date of March 23, 2009 but was given an extension sometime after the due date.
- (4) On April 9, 2009, claimant went to jail for two months.
- (5) On April 23, 2009, claimant, or somebody posing as the claimant called to verbally withdraw the application of February 12, 2009.
- (6) Claimant denies contacting the Department.
- (7) Claimant later inquired into the status of her application and was told that her application had been withdrawn.
- (8) On May 21, 2009, claimant requested a hearing on the Department's failure to process claimant's CDC and FIP application.

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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM).

The Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, the Child Care and Development Block Grant of 1990, and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The program is implemented by Title 45 of the Code of Federal Regulations, Parts 98 and 99. The Department of Human Services (DHS or department) provides services to adults and

children pursuant to MCL 400.14(1) and MAC R 400.5001-5015. Department policies are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM).

In the current case, the Department argued that claimant verbally withdrew her application; in rebuttal, the claimant argued that she had not done so, and pointed the undersigned to her OTIS record, which showed that she was incarcerated on April 9, 2009, and thus, could not have made an April 23, 2009 phone call with which to withdraw her application.

The undersigned disagrees with claimant's contention that her withdrawal was impossible, given that claimant appeared to have no obstacle to filing a hearing request while in jail, and notes that claimant has provided no evidence to support her allegations, especially in light of the Department's testimony, from a caseworker who was familiar with the case, that he talked to the claimant specifically.

However, the Department's case is similarly sparse—there is no written withdrawal of an application, and the Department admitted that they were behind the standards of promptness in processing claimant's application.

Indeed, the Administrative Law Judge has been unable to piece together exactly what happened in the current case, as the only fact everybody can agree upon is that there is no real evidence to show what happened and how it happened.

As such, due to this lack of evidence, the Administrative Law Judge shall rule that the Department failed to provide sufficient evidence to prove that the action they took was the correct one, as in administrative hearings, the undersigned follows a policy of looking to the Department to show that their actions were correct.

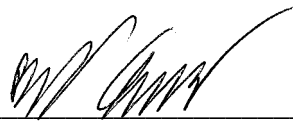
However, even if the Department should have processed claimant's application for FIP and CDC, the undersigned notes that the BEM 265 prohibits an FIP recipient from receiving FIP while incarcerated, which claimant undeniably was. Therefore, if claimant was eligible for FIP, her eligibility would only extend until her date of incarceration, April 9, 2009.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department must process claimant's FIP and CDC applications for a closed period of February 12, 2009 through April 9, 2009.

Accordingly, the Department's decision in the above stated matter is, hereby,
REVERSED.

The Department is ORDERED to re-process claimant's FIP application from the date of application and issue supplemental benefits if claimant meets all eligibility factors for a closed period ending on April 9, 2009.



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

Date Signed: 03/19/10

Date Mailed: 03/26/10

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.

RJC/dj

cc:

