STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF: █████████

        Claimant

Reg. No: 2009-24643
Issue No: 1025; 3008
Case No: ████████
Load No: ████████
Hearing Date:
July 9, 2009
Clare 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 9, 2009.

ISSUE

Was the claimant's assistance application properly denied for failure to cooperate with the Office of Child Support?

FINDINGS OF FACT

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

(1)   On 5-4-09, DHS received a notice of noncooperation from the Office of Child Support regarding claimant's alleged failure to respond by an unspecified date to some unknown

letters, and for failing to provide identifying information about the non-custodial parent, including date of birth, Social Security number, full legal name, and last known address.

    (2)   On 5-16-09, DHS, closed claimant's FIP and processed claimant's FAP with the sanction included.

    (3)   On 6-1-09, having received a notice of cooperation from the Office of Child Support, DHS reopened all of claimant's benefits; however, benefits were still lost for the two week period between 5-16-09 and 6-1-09.

    (4)   Claimant requested a hearing on 6-1-09, arguing that she had been cooperative.

CONCLUSIONS OF LAW

The Food Assistance Program (FAP) (formerly known as the Food Stamp (FS) program) is established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations (CFR). The Department of Human Services (DHS or department) administers the FAP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3001-3015. Department policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

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).

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. Failure to cooperate without good cause results in disqualification. Disqualification includes member removal, denial of program benefits, and/or case closure, depending on the program. PEM 255.

The Department contends that claimant was noncooperative with a child support investigation, and for that reason, her application was denied.

However, beyond the initial letter indicating noncooperation, the Department has failed to provide any evidence at all that claimant did not cooperate. In fact, the Department is unable to testify exactly how claimant did not cooperate. The letter of non-cooperation states that claimant did not provide information or respond to the Office of Child Support, but the response section provides no dates or deadline for claimant to respond by, and requests information—such as the non-custodial parent's Social Security number—that no office can reasonably expect the claimant to know.

Furthermore, the undersigned is struck by the fact that after a mere 30 seconds of searching upon the State of Michigan Offender Tracking Information System (OTIS), the undersigned found an entry for the non-custodial parent that stated that he had been sentenced to prison for…a failure to pay child support. This is not information that was hidden from OCS; the letter of noncooperation shows that OCS was fully aware of the non-custodial parent's name. What this information is, is *prima facie* evidence that a child support case was already open on this man, and thus, the Administrative Law Judge cannot understand how the claimant came to the attention of OCS, or why OCS was even pursing the claimant, given that the non-custodial parent is already in the system and being tracked.

Claimant alleges that she told OCS of this in the past, but OCS still sent out the noncooperation letter. The Administrative Law Judge questions how this case got this far, in light of all these facts. The Department representatives were unable to answer that question, as OCS had not seen fit to enlighten them as to the situation. No evidence was presented beyond the letter of noncooperation that showed that claimant had been the noncooperative in the slightest—in fact the great weight of the evidence shows that OCS had no reason to pursue the claimant in the first place.

For these reasons, the undersigned finds that the Department has not met its burden of proof in determining that the claimant was noncooperative—all negative actions against the claimant should be removed.

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 benefits was incorrect.

Accordingly, the Department's decision is, hereby, REVERSED.

The Department is ORDERED to restore claimant's benefits retroactively to the date of negative action, and remove the letter of noncooperation from claimant's applicant file.

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

Date Signed:_July 10, 2009_____

Date Mailed:_July 13, 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 receipt 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: