

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.: 2009-28545
Issue No.: 1003/6019
Case No.:
Load No.:
Hearing Date:
August 6, 2009
Oakland County DHS (2)

ADMINISTRATIVE LAW JUDGE: Michael J. Benmane

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9; MSA 16.409 and MCL 400.37; MSA 16.437 upon the Claimant's request for a hearing. After due notice a telephone hearing was held on August 6, 2009. The Claimant personally appeared and testified.

ISSUE

Did the Department properly sanction the Claimant's Family Independence Program (FIP), close her Child Development and Care (CDC), and reduce her Food Assistance (FAP)?

FINDINGS OF FACT

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

1. On March 11, 2009, the Department closed the claimant's FIP and CDC and reduced her FAP due to noncompliance with the office of child support.
2. On May 6, 2009, the Claimant filed a request for a hearing.

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 (formerly known as the Family Independence Agency) 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 Child Development and Care 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 (formerly known as the Family Independence Agency) provides services to adults and children pursuant to MCL 400.14(1) and MAC R 400.5001-5015. Department policies are contained 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 (formerly 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).

FIP, CDC Income Eligible, MA and FAP

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)

The Department received information that the Claimant had failed to cooperate with the office of child support. Claimant was the caretaker of her minor half sister. The department determined that the claimant did not cooperate by failing to identify the father of her sister after their mother had passed away.


At the hearing the claimant testified that she had no information about the father of her sister and had attempted to contact the office of child support to tell them the same.

The office of child support was unavailable and therefore unable to provide any evidence to the contrary. I cannot find that the claimant failed to cooperate.

The department testified that the claimant's CDC was presently open after having closed while the claimant was on maternity leave. The claimant returned to work on May 22, 2009.

DECISION AND ORDER

The Administrative Law Judge based on the above findings of fact and conclusions of law finds that the Department erred in closing the Claimant's FIP, and reducing her FAP and **REVERSES** and **ORDERS** the Department reinstate her FIP and FAP back to the date of closure and replace any lost benefits. In addition, the department is **ORDERED** to replace any unpaid CDC benefits after the claimant's return to work on May 22, 2009.



Michael J. Bennane
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 09/23/09

Date Mailed: 09/23/09

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 60 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.

MJB/jlg

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