

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.: 2009-33934
Issue No.: 1025/2006/3008
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
September 28, 2009
Wayne County DHS (35)

ADMINISTRATIVE LAW JUDGE: Michael J. Bennane

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 September 28, 2009. The Claimant personally appeared and testified.

ISSUE

Did the Department properly close the Claimant's Family Independence Program (FIP), Medical Assistance (MA), 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 February 4, 2009, the department closed the claimant's FIP for failure to cooperate with the office of child support (OCS).

2. On March 1, 2009, the department reduced the claimant's FAP group from 6 (six) to 5 (five) by removing her from her FAP group for failure to comply with the office of child support.
3. On June 8, 2009, the Claimant filed a request for a hearing.
4. On June 11, 2009, the department received notice that the claimant had complied with OCS.

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 (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).

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 Medical Assistance (MA) program is established by Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department

of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10, et seq., and MCL 400.105. Department policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

At the hearing, the department testified that the negative actions were based on a lack of cooperation with the office of child support (OCS), concerning two children. The first child is the claimant's son, the second child is the claimant's daughter's child and the claimant's grandchild. The grandchild and the daughter are both members of the claimant's FAP group.

The department sanctioned the claimant for non-cooperation with the OCS dating back to October 29, 2008.

The claimant testified that she complied with the OCS on February 25, 2009, when she gave it the information she had concerning her son's father.

It should also be noted that the claimant's daughter has her own FIP grant for herself and her child/children. This fact explains why the FAP grant is for a larger number of people than the FIP grant.

The Claimant's FIP was not closed until February 4, 2009, and according to the claimant's testimony, the claimant supplied the necessary information about her child's father after that closure; on February 25, 2009. Therefore, the department was correct in closing the claimant's FIP on February 4, 2009. However, the OCS did not notify the department of the claimant's compliance until June 11, 2009, almost three months after her compliance.

Exceptions: Failure to cooperate with the following eligibility requirements have their own specific penalties, not always FIP denial or closure:

Employment and/or self-sufficiency-related activities. (See PEM 230A-233B)

Social Security Numbers. (See PEM 223)

Child Support. (See PEM 255) (PEM 210, pp. 3-4)

And

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...

DEPARTMENT POLICY

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 daughter's noncompliance with OCS resulted in the claimant's FAP group being reduced from six members to five members. This action was also correct.

According to testimony at the hearing the claimant's MA was also cancelled for the same noncompliance but there is not documentation as to when such a cancellation took place.

The office of child support was unavailable and therefore unable to provide any evidence. Therefore, the testimony of the claimant as to the date of her compliance with OCS stands without evidence to the contrary.

This ALJ finds that the department should have reopened the claimant's FIP and MA the date she supplied the OCS with the needed information, February 25, 2009.

I also find that the claimant's FAP was correctly reduced by one member due to the removal of the claimant's daughter from her FAP group.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, REVERSES and ORDERS the Department to reopen the claimant's FIP and MA beginning February 25, 2009. The reduction of the claimant's FAP is AFFIRMED.



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

Date Signed: 10/28/09

Date Mailed: 10/28/09

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

cc:

