

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: 2009-37046
Issue No: 3019
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
October 22, 2009
Alger County DHS

ADMINISTRATIVE LAW JUDGE: Suzanne L. Keegstra

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 telephone hearing was held on October 22, 2009. The claimant personally appeared and provided testimony.

ISSUE

Did the department properly withdraw the claimant's Food Assistance Program (FAP) application in August, 2009?

FINDINGS OF FACT

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

1. The claimant submitted an application for FAP benefits on August 11, 2009. The department conducted a personal interview with the claimant at that time. The claimant indicated that her estranged husband was paying her house payment in lieu of child support and she did not want to go through Friend of the Court to change this. (Department Exhibit 12).

2. The department staff member interviewing her informed her she would have to pursue child support. The claimant then withdrew her request for FAP benefits.

(Department Exhibit 12).

3. The claimant phoned the department the next day, August 12, 2009, and stated she wanted to think about pursuing child support and requested her application not be withdrawn. (Department Exhibit 12).

4. The department mailed the claimant a Verification Checklist (DHS-3503) on August 12, 2009, requesting the claimant complete the enclosed child support referral and return it by August 24, 2009. (Department Exhibit 8 – 11).

5. The claimant called the department on August 25, 2009, and requested to have her application withdrawn. (Department Exhibit 7)

6. The claimant was issued a Notice of Case Action on September 15, 2009, showing that per her request the FAP application was denied. (Department Exhibit 14 – 16).

7. The claimant submitted a hearing request on September 21, 2009.

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).

Department policy requires the claimant to comply with all requests for action or information needed to establish paternity 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. BEM 255. This directive includes the FAP program. Thus, the department properly informed the claimant that she would have to pursue child support from her estranged husband to receive FAP benefits.

The claimant was interviewed on August 11, 2009. At that time, the claimant indicates that her estranged husband (the child's father) was paying the mortgage payment instead of paying child support and that she was afraid she would lose her house if child support was ordered through Friend of the Court. The claimant was informed that she would have to proceed with a child support action if she was to receive benefits. The claimant withdrew her application at that personal interview on August 11, 2009 and then called back the next day to indicate she didn't want to withdraw the application, but would think about pursuing the child support. The department followed through and mailed the claimant the child support referral. However, the claimant then called on August 25, 2009 and informed the department that she wished to withdraw her application.

The claimant disputes that this is what she told the department. The claimant indicates that she told the department that she didn't want to pursue child support through Friend of the Court, so to deny or withdraw her application. However, while the claimant seems to think this would produce some different outcome, the department did exactly as she told them to do. The department closed the application and indicated on the Notice of Case Action that it was per her request. Thus, this Administrative Law Judge finds that the department followed the claimant's instructions and performed the actions that she requested.

It is noted that the claimant did not mention any good cause reasons for not pursuing child support at any time, up until this hearing. The claimant then claimed that going through Friend of the Court would cause emotional harm to the child. Although the claimant admitted that she was already going through divorce proceedings.

Good cause can only be found when requiring the cooperation/support action is against the child's best interests and there is a specific good cause reason. BEM 255. The two specific types of good cause reasons are cases in which securing support would harm the child (e.g. if the child was conceived by rape or adoption proceedings are pending), and cases in which there is a danger of physical or emotional harm to the child or client (e.g. sexual abuse physical abuse, mental abuse, neglect or deprivation of medical care). The client did not indicate that there was any type of physical, sexual or emotional abuse occurring, just that going through Friend of the Court could cause emotional harm to the child. However, this is not the type of harm contemplated by department policy. Further, this appears to be a quite shallow attempt to still get benefits when the claimant does not want to pursue child support from the child's father. It is quite clear, as the claimant herself pointed out in the initial interview, that she simply wants her house payment made, not child support. This is a decision the claimant may make, but then she will not be eligible for FAP benefits.

Therefore, this Administrative Law Judge finds that the department acted properly in withdrawing the claimant's application for FAP as the claimant requested this action and she provided no good cause for not pursuing a child support action.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department properly withdrew the claimant's request for FAP benefits as the claimant requested, as she was not willing to comply with the mandatory support action.

Accordingly, the department's actions are UPHeld. SO ORDERED.

/s/

Suzanne L. Keegstra
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: November 16, 2009

Date Mailed: November 16, 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 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.

SLK 

cc: 