

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: 2009-4860

Issue No: 1021

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

May 5, 2009

Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Steven M. Brown

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 conducted from [REDACTED] on May 5, 2009.

ISSUE

Did the Department correctly take action to terminate Claimant's Family Independence Program (FIP) benefits and Food Assistance Program (FAP) benefits?

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 was a FIP and FAP recipient.

(2) On September 4, 2008, the Department received a [REDACTED] stating that Claimant's children had not been living with her since June 2008. (Exhibit 1)

(3) The Department, in turn, contacted Claimant's ex-husband, [REDACTED], who told the Department that the children were living with him and attending school in the [REDACTED]

(4) On September 8, 2008, the Department sent Claimant a DHS-176, Michigan Department of Human Services Benefit Notice, informing her that her FIP benefits would end on September 23, 2008 because it had received a [REDACTED] that her children were not living in her home and that she needed to respond in 10 days if she disputed the allegations. (Exhibits 2-5)

(5) On September 23, 2008, the Department closed the Claimant's FIP and FAP cases.

(6) On November 17, 2008, the Department received Claimant's hearing request protesting the termination of her benefits.

(7) The Department Manager who handled this case was not present at hearing. The Department Manager and specialist who appeared at hearing testified that they would have attempted to contact Claimant and/or sent her a verification request prior to sending the negative action notice. The Department also testified that there is no policy in regard to the proper procedure for handling a fraud hotline complaint. No law, regulation or manual item was cited on the Hearing Summary.

(3) Claimant testified that her children were living with her until [REDACTED] kept them and enrolled them in school after a weekend visit in late August/early September.

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 Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

The Food Assistance Program, 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”), formally known as the Family Independence Agency, administers the FAP program pursuant to MCL 400.10, *et seq* and MAC R 400.3001-3015. Departmental policies are found in the Program Administrative Manual (“PAM”), the Program Eligibility Manual (“PEM”), and the Program Reference Manual (“PRM”).

Clients must cooperate with the local office in determining initial and ongoing eligibility. Clients must completely and truthfully answer all questions on forms and interviews. Clients must report changes in circumstances that potentially affect eligibility or benefit amount. Changes must be reported within 10 days after the client is aware of them or the start of the employment date. PAM 105

Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements. The Department is required to obtain verification when it is required by policy, when it is required as a local office option and when information regarding an eligibility factor is unclear, inconsistent, incomplete or contradictory. Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level. Verification is not required when the client is clearly ineligible or for excluded income and assets unless needed to establish the exclusion. The Department should tell the client what verification is required, how to obtain it and the due date. The client should be given 10 calendar days to provide the verification requested. If the client cannot provide the verification despite a reasonable effort, the Department should extend the time limit at least once. A negative action notice should be sent when the client indicates refusal to provide a verification or the time period given has elapsed and the client has not made a reasonable effort to provide it. Before determining eligibility, the Department should give the client a reasonable opportunity to resolve any discrepancy between his statements and information from another source. PAM 130

It seems to me the more reasonable and proper approach for the Department to take in response to the fraud hotline referral would have been to attempt to contact Claimant by telephone and/or written verification after speaking with her ex-husband and before sending out a negative action notice. However, with that said, Claimant had an opportunity to respond to the allegations either by contacting the Department within 10 days of the Benefit Notice and/or by filing a hearing request prior to the effective date of the action and she did neither. I think the reason that she did neither is that the children no longer lived with her at the time. Hence, I find that the Department has established that it acted in accordance with policy when it terminated her FIP and FAP benefits.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department acted in accordance with policy in terminating Claimants' FIP and FAP benefits.

Accordingly, the Department's FIP and FAP eligibility determination is AFFIRMED.

/s/

Steven M. Brown
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: May 13, 2009

Date Mailed: May 14, 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.

SMB/db

cc:

