

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: 2009-5179

Issue No: 1017, 1022

Case No: ██████████

Load No: ██████████

Hearing Date:

March 25, 2009

Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Jeanne M. VanderHeide

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the Claimant's request for a hearing. After due notice, a telephone hearing has conducted from Detroit, Michigan on March 25, 2009. The Claimant appeared and testified. ██████████, FIM and ██████████, case worker, appeared on behalf of the Department.

ISSUES

Whether the Department properly determined CDC benefits as of September, 2008 and whether the Department properly denied FIP benefits from September 26, 2008 through the end of October, 2008.

FINDINGS OF FACT

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

1. In July of 2008, Claimant was receiving FIP and CDC (child care) benefits for two children.
2. Claimant gave birth to a third child on [REDACTED]
3. Claimant testified that she notified the Department of existence of the third child on [REDACTED] when she applied for FIP and food stamps (FAP).
4. Claimant testified that she also requested CDC benefits for the third child as of [REDACTED]
5. The Department denied FIP on November 10, 2008 due to excess income. The denial was based on a note from [REDACTED] indicating that Claimant was employed beginning April 1, 2008. (Exhibit 1, p. 7).
6. Claimant testified that while she had been working for other patients, she had not provided any work for [REDACTED] for several months.
7. Claimant testified that she went back to work at the end of October and that her income for October was [REDACTED]. Claimant testified that she had no income in September.
8. Claimant's third child was never added to the CDC benefit and Claimant's day care provider has not been paid for care provided to the child.
9. The Department testified that the reason Claimant was denied CDC benefits for the third child is that Claimant never signed a Child Care Provider Verification.
10. The Department further testified that phone calls were made to Claimant advising her to sign the Child Care Provider Verification, but that no notice was mailed requiring Claimant to sign the form.

11. The Claimant testified that the Department informed her that the child care provider was not filling out the Child Care Provider Verification properly.
12. On December 2, 2008, the Department received the Claimant's Request for Hearing protesting the cancellation of her CDC and FIP benefits.

CONCLUSIONS OF LAW

A. FIP Benefits

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).

Clients must cooperate with the local office in determining initial and ongoing eligibility to provide verification. PAM 130, p. 1. The questionable information might be from the client or a third party. Id. The Department can use documents, collateral contacts or home calls to verify information. Id. The client should be allowed 10 calendar days to provide the verification. If the client cannot provide the verification despite a reasonable effort, the time limit to provide should be extended at least once. PAM 130, p.4; PEM 702. If the client refuses to provide the information or has not made a reasonable effort within the specified time period, then policy directs that a negative action be issued. PAM 130, p. 4. Before making an eligibility determination, however, the department must give the client a reasonable opportunity

to resolve any discrepancy between his statements and information from another source. PAM 130, p. 6.

Financial need must exist to receive FIP benefits. Need is determined to exist when budgetable income is less than the payment standard established by the department. Program, living arrangement, grantee status and eligible group size are variables that affect the payment standard. PEM 515, p. 1.

In this case, the Claimant's testimony was credible. Claimant applied for FIP benefits on 1/26/09. Claimant reported the birth of her third child in this application. Claimant was initially not working following the birth of this child, but the Department did not update the income verification, choosing to rely on a note in the file from April of 2008. Claimant testified that she earned [REDACTED] for the month of October. The payment standard for a group of four is [REDACTED] under RFT 210. Since Claimant's income for the month of October was more than the payment standard, Claimant does not qualify for FIP benefits. Accordingly, the Department's FIP eligibility determination is AFFIRMED.

B. CDC Benefits

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).

A client may update a current application rather than complete a new one to add a member. PAM 115, p. 10. For FIP, dependent child member adds, you may obtain the information necessary to add the member and document the case record. The Department need not have the client sign and date the updated application. Id. If neither the Claimant nor the Department can obtain verification despite a reasonable effort, then the Department should use the best available information. If no evidence is available, then the Department is instruction to use best judgment. PAM 130, p. 3.

In this case, the Department was notified of the birth of Claimant's third child at the time that she applied for FIP benefits. Claimant also provided a Child Care Provider Verification signed by the provider dated [REDACTED]. Claimant testified that she was told the provider was not filling out the form correctly. Claimant also testified that she was never told that she needed to sign the form. Furthermore, the Department did not follow up with a written negative action once the time period to provide the information had elapsed. The Department could have used the best information available which was the information provided in the unsigned Child Care Provider Verification.

Accordingly, the Department's failure to add Claimant's third child on CDC benefits is REVERSED.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department properly denied the Claimant FIP benefits based on wages earned.

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department improperly failed to add Claimant's third child to the CDC case.

Accordingly, it is ORDERED:

1. The Department is ORDERED to add Claimant's third child for CDC benefits from the date of Application 9/26/06.
2. The Department shall supplement the Claimant and/or the child care provider with any lost benefits she was otherwise entitled to receive.

/s/

Jeanne M. VanderHeide
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 04/03/09

Date Mailed: 04/03/09

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 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 mailing 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.

JV/dj

cc:

