

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: 2009-6076  
Issue No: 1038; 6043  
Case No: [REDACTED]  
Load No: [REDACTED]  
Hearing Date:  
February 4, 2009  
Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Gary F. Heisler

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 hearing was held on February 4, 2009. Claimant appeared and testified. The department case worker was not present. The department was represented by a local office supervisor.

ISSUES

(1) Did the Department of Human Services properly sanction claimant's Family Independence Program (FIP) case for failure to participate in employment and/or self-sufficiency related activities?

(2) Did the Department of Human Services properly close claimant's Child Development and Care (CDC) case because she had no need for child care?

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 submitted a request for hearing about the pended closure of her Family Independence Program (FIP) case on November 24, 2008.

(2) Claimant's Family Independence Program (FIP) case was sanctioned November 25, 2008, under negative action code Y405.

(3) Claimant's Child Development and Care (CDC) case was closed on November 24, 2008. Claimant was sent adequate notice on that same day.

(4) On December 2, 2008, claimant submitted a request for hearing on the notice of action regarding her Child Development and Care (CDC) case.

(5) On December 5, 2008, the DHS caseworker filled out a Hearings Summary which indicates the programs impacted are both Family Independence Program (FIP) and Child Development and Care (CDC).

#### 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 Child Development and Care (CDC) 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 (DHS or department) 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).

When the Department of Human Services takes a negative action on a recipient's public assistance, the recipient has the right to request a hearing. The purpose of a requested hearing is so that an independent finder of fact (the Administrative Law Judge) may determine if the Department's action is in accordance with law, facts, and Department policy. The Department has the initial burden of going forward with evidence to show: the action taken; the factual basis for the action; and the law, rule, regulation, or policy relied upon to take the action. Program Administrative Manual (PAM) 600, page 26 states that showing the DHS procedures ensured that the client received adequate or timely notice of the proposed action and was afforded all other rights, should always be included in planning for presentation of the case.

In this case the department submitted four documents. First, is a request for hearing from claimant, submitted December 2, 2008, on a department notice dated November 24, 2008, stating that claimant's CDC case was closed on November 24, 2008. Second, is a Hearing Summary, dated December 5, 2008, filled out by the DHS caseworker indicating that both FIP and CDC are impacted. The other two documents are computer screen dumps. One indicated claimant's FIP case was pended to close on November 25, 2008 under negative action code Y405 (failure to participate in employment and/or self-sufficiency related activities). The other shows the CDC case was closed November 24, 2008, under negative action code Y312 (no longer a need for day care). Claimant testified that she got timely notice that her FIP case would close and submitted a request for hearing, on that notice, on November 24, 2008.

The hearing was stopped briefly in order to try and locate the request for hearing on the FIP case. The department representative at the local office stated the hearings coordinator there had no record of such a hearing request. State Office of Administrative Hearings and Rules has no record of any other scheduled or pending hearing. The department representative stated claimant's FIP case was sanctioned on November 25, 2008, and is currently closed as part of that sanction. Claimant submitted a timely hearing request and her FIP case should have remained open pending this hearing. No further evidence or analysis is required to determine that the department did not follow its own procedure or afford claimant all the rights associated with her request for hearing.

With regard to the CDC case, it is established that claimant's FIP case was closed. That means she was not required to attend Work First. Since Work First participation was the need reason for CDC, closure of the CDC case under these circumstances was correct.

Huge latitude and flexibility are extended to both recipients and department representatives in developing the evidentiary record supporting their respective positions with regard to the department's negative action. While the Administrative Law Judges at State Office of Administrative Hearings and Rules are empathetic to the overwhelming volume of work at the local DHS offices, our primary responsibility is to safeguard the rights of benefit recipients. When it becomes apparent that the Department is not even partially prepared to meet its initial burden of going forward with evidence, continuing a hearing becomes no more than a waste of state resources.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the Department of Human Services properly closed claimant's Child Development and Care (CDC) case because she had no need for child care.

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the Department of Human Services DID NOT properly process its actions regarding claimant's alleged failure to participate in employment and/or self-sufficiency related activities.

It is further ORDERED that Claimant's Family Independence Program (FIP) case be reinstated and all Family Independence Program (FIP) benefits she was eligible for shall be supplemented. If there is in fact a sufficient basis for the Department to pursue a sanction of Claimant's Family Independence Program (FIP) case, that action may be processed in accordance with policy.

/s/ \_\_\_\_\_  
Gary F. Heisler  
Administrative Law Judge  
for Ismael Ahmed, Director  
Department of Human Services

Date Signed: February 9, 2009

Date Mailed: February 10, 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 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.

GFH/om

cc:

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Administrative Hearings (2)