

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: 2009-8931

Issue No: 1003

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

April 30, 2009

Oakland County DHS

ADMINISTRATIVE LAW JUDGE: Ivona Rairigh

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 April 30, 2009. Claimant personally appeared and testified. Department was represented by a [REDACTED] and [REDACTED] from [REDACTED].

ISSUE

Did the department correctly take action to terminate claimant's Family Independence Program (FIP) benefits in December, 2008?

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 recipient when the Office Of Child Support mailed her a Noncooperation Notice on October 29, 2008 to a [REDACTED], stating that she has failed to respond to two letters to contact this office. (Department's Exhibit 1).

(2) On December 15, 2008 department mailed the claimant a Verification Checklist to a [REDACTED], giving her until December 29, 2008 to contact the support specialist at a given number as she is "currently child support sanctioned". (Department's Exhibit 3).

(3) Department also mailed the claimant a notice about her Food Assistance Program benefits on December 15, 2008. This notice also had the name, [REDACTED], and a telephone number of the specialist on it, directing the claimant to call this person to become cooperative and have the child support sanction removed. (Department's Exhibit 4).

(4) Department entered a child support disqualification on DHS computer to be effective December 27, 2008. Claimant requested a hearing on December 23, 2008 and her FIP benefits continued pending the outcome of this hearing.

(5) Following the hearing representative from the Office of Child Support interviewed the claimant and forwarded a Cooperation Notice stating that the claimant was now considered to be cooperating in establishing paternity and/or securing support. (Department's Exhibit 6).

#### 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).

Departmental policy states:

### **DEPARTMENT PHILOSOPHY**

Families are strengthened when children's needs are met. Parents have a responsibility to meet their children's needs by providing support and/or cooperating with the department including the Office of Child Support (OCS), the Friend of the Court and the prosecuting attorney to establish paternity and/or obtain support from an absent parent. PEM 255, p. 1.

### **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.

Absent parents are required to support their children. Support includes **all** the following:

- Child support
- Medical support
- Payment for medical care from any third party.

**Note:** For purposes of this item, a parent who does not live with the child due solely to the parent's active duty in a uniformed service of the U.S. is considered to be living in the child's home.

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.

**Exception:** A pregnant woman who fails to cooperate may still be eligible for MA.

## COOPERATION

### FIP, CDC Income Eligible, MA and FAP

Cooperation is a condition of eligibility. The following persons in the eligible group are required to cooperate in establishing paternity and obtaining support, unless good cause has been granted or is pending.

- . Grantee and spouse.
- . Specified relative/person acting as a parent and spouse.
- . Parent of the child for whom paternity and/or support action is required.

Cooperation is required in all phases of the process to establish paternity and obtain support and includes **all** of the following:

- . Contacting the SS when requested.
- . Providing all known information about the absent parent. Appearing at the office of the prosecuting attorney when requested.
- . Taking any actions needed to establish paternity and obtain child support (e.g., testifying at hearings or obtaining blood tests).

That the claimant, a FIP recipient, was required to cooperate with the Office of Child Support (OCS) regarding the absent parent is not in dispute. Claimant however states that she did not receive any letters from OCS in October, 2008, as she had moved and did not get some of her mail. Noncooperation Notice sent to the claimant by OCS on October 29, 2008 was mailed to a [REDACTED]. Department's representative testified that claimant's address was changed to the [REDACTED] in October, 2008. Therefore, it is possible that OCS still had claimant's [REDACTED] and was not alerted to the address change, resulting in claimant not getting their mail in October, 2008.

Secondly, claimant states she did try to contact OCS several times after she became aware of the claim of alleged noncooperation with them, that she could not get in touch with

██████████ whose name and number were given to her, and that she even spoke to a OCS supervisor without results. OCS representative at the hearing states he has not received any calls from the claimant and had never heard about her case prior to the hearing. ██████████, OCS worker that the claimant was directed to contact, is not available for the hearing, and her testimony cannot be obtained to determine if the claimant had indeed tried to contact her in the past. Claimant's DHS caseworker is also not available, and it is unknown if she could have offered testimony that could establish if the claimant indeed tried to reach her when she could not reach ██████████. While this Administrative Law Judge finds OCS representative's testimony credible, she is also aware that OCS has large number of child support cases and that at times is not easy for clients to reach this office, judging from other hearings involving OCS she has held in the past. Claimant also stated that she had returned some forms sent to her in the past citing information she had about the absent father that is the subject of the child support sanction, and hearing testimony shows that OCS indeed has an address for this person.

Claimant did provide satisfactory information about the absent father immediately following the hearing, as a child support cooperation notice was faxed to the Administrative Law Judge on the day of the hearing. The Administrative Law Judge is not persuaded that OCS indeed did not send mail to claimant's incorrect address in October, 2008, and also that the claimant did not indeed try to contact OCS worker ██████████ and could not. A determination that claimant's FIP benefits should have been closed due to her alleged child support noncooperation cannot therefore be reached.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department incorrectly took action to terminate claimant's FIP benefits in December, 2008.

Accordingly, department's action is REVERSED. Department shall continue claimant's FIP benefits without interruption. SO ORDERED.

/s/  
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Ivona Rairigh  
Administrative Law Judge  
for Ismael Ahmed, Director  
Department of Human Services

Date Signed: May 4, 2009

Date Mailed: May 5, 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.

cc:

[REDACTED]