

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: 2009-12602

Issue No: 3019

Case No: ██████████

Load No: ██████████

Hearing Date:

March 11, 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 was conducted from Detroit, Michigan on March 11, 2009. The Claimant appeared and testified. Claimant's child care provider, ██████████, also appeared and testified on behalf of Claimant. ██████████ appeared on behalf of the Department.

ISSUE

Whether the Department properly closed the Claimant's FAP case based upon a notice that Claimant's work verification was under investigation.

FINDINGS OF FACT

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

1. The Claimant submitted an application for public assistance for food stamps, Medicaid and Child Care Assistance (CDC). Claimant was receiving assistance at the time of the hearing.

2. The Claimant's file was originally held open for Claimant to provide verification of her employment.

3. Verification was provided to the satisfaction of Claimant's case worker, [REDACTED]

4. Claimant is currently receiving FAP and Medicaid. These benefits have been provided continuously to the Claimant and are not at issue in this hearing.

5. On 1/15/09, Claimant's case worker was notified by telephone by OIG Agent to close Claimant's child care case pending resolution of an investigation involving employment and Child Day Care fraud.

6. The department then closed Claimant's child care case on 1/27/09. (Exhibit 1)

7. The department testified that Claimant was not provided with any negative action notice or opportunity to provide additional information before closing the case.

8. On February 5, 2009, the Department received the Claimant's Request for Hearing protesting the cancellation of her FAP benefits.

CONCLUSIONS OF LAW

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).

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 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. If the client refuses to provide the information or has not made a reasonable effort within the specified time period, then a negative action can be issued. Id. 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.

In this case, the case worker closed the case upon advice of the OIG officer without giving the Claimant any notice of negative action or an opportunity to respond to information from another source before closing the case. While there is an ongoing investigation, Claimant has not had an opportunity to present her evidence of valid employment. This is a violation of Department policy. Accordingly, the Department's CDC closure is REVERSED.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department improperly closed the Claimant's Child Day Care case.

Accordingly, it is ORDERED:

1. The Department's negative action notice is REVERSED.

2. The Department shall reopen the Claimant's CDC case back to the date of closure and supplement the Claimant 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: 4/2/09

Date Mailed: 4/3/09

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 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.

JV/dj

cc:

[REDACTED]