

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.: 2009-13918
Issue No.: 1025; 3003
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
April 22, 2009
Wayne County DHS (49)

ADMINISTRATIVE LAW JUDGE: Colleen M. Mamelka

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 conducted in Detroit, Michigan on April 22, 2009. The Claimant appeared and testified. The Claimant was represented by [REDACTED]. Norma Whitt and Vinnie Washington appeared on behalf of the Department.

ISSUE

1. Whether the Claimant failed to cooperate with the Department resulting in the termination of the Claimant's FIP benefits?
2. Whether the Department properly calculated the Claimant's 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. The Claimant is a FIP and FAP recipient.

2. The Office of Child Support issued a Non-cooperation notice against the Claimant based upon a failure to cooperate.
3. The Claimant's FIP benefits were terminated for the months of October, November and December 2008. (Exhibit 5)
4. The Claimant's FAP budget included FIP income for the months from October through December 2008. (Exhibit 4, 6)
5. On November 6, 2008, the Department and the Office of Child Support issued a Cooperation Notice. (Exhibit 1)
6. On January 29, 2009, the Department received the Claimant's written request for hearing.

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, formally 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").

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 administers the FAP program pursuant to MCL 400.10, *et seq* and MAC R 400.3001-3015. Departmental policies are found in the PAM, PEM, and PRM.

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. PEM 255 Failure to cooperate without good cause results in disqualification. *Id.* If good cause exists, cooperation is excused as an eligibility requirement for the child involved. *Id.* Any individual required to cooperate who fails to cooperate without good cause, causes FIP group ineligibility for a minimum of one month. *Id.* Failure to cooperate without good cause results in FAP disqualification of the person who failed to cooperate. PEM 255 Reinstatement restores a closed program to active status without completion of a new application. PAM 205

As a preliminary matter, the Claimant signed a request for hearing on January 5, 2009 however upon further examination; the request was not received until January 29, 2009. During the hearing, it was explained to the Claimant that jurisdiction covered the 90 day period prior to the hearing request which is the only period addressed in this decision.

In this case, the Office of Child Support issued a Non-cooperation Notice which resulted in the termination of the Claimant's FIP benefits effective October 2008. The Claimant was found to be in compliance effective November 6, 2008 however the Claimant's FIP benefits were not reinstated until January of 2009. In addition, although the Claimant did not receive any cash assistance for the months of October, November, and December, FIP income was improperly included on the FAP budget for those months. Further, for the month of October, the Claimant was not in compliance with the Office of Child Support therefore she was disqualified from the FAP group for that month. Under these facts, the Department's actions are not upheld.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department's actions are not upheld.

Accordingly, it is ORDERED:

1. The Department's failure to timely reinstate the Claimant's FIP benefits is REVERSED.
2. The Department shall supplement the Claimant the FIP benefits she was entitled to received upon Cooperation with Child Support effective November 6, 2008 in accordance with department policy.
3. The Department's calculation of the Claimant's FAP budget is REVERSED
4. The Department shall recalculate the Claimant's FAP budget for the months of October, November, and December 2008 in accordance with this decision.
5. The Department shall supplement the Claimant for any lost FAP benefits she was otherwise eligible and qualified to receive effective October 25, 2008 (90 days prior to hearing request) in accordance with department policy.

/s/
Colleen M. Mamelka
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 04/27/09

Date Mailed: 04/29/09

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.

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