

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

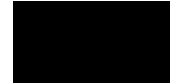


Claimant

Reg. No: 2009-20466

Issue No: 1003

Case No:



Load No:

Hearing Date:

May 25, 2010

Kent County DHS

ADMINISTRATIVE LAW JUDGE: Marlene B. Magyar

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 May 25, 2010. Claimant personally appeared and testified.

ISSUE

Did the department properly withhold Family Independence Program (FIP) benefits from claimant in March 2009?

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 is the specified custodial caretaker relative (grandmother) of the two minor children whose paternity remains in question in this case.

(2) On December 18, 2008, the Office of Child Support (OCS) notified claimant in writing she was considered to be in noncooperation status in establishing the children's paternity

because she failed to respond to two letters OCS sent her asking her to contact them, and also, because she failed to provide OCS with any information about their non-custodial parent(s) (Department Exhibit #2).

(3) When OCS notified claimant's local office caseworker of this status, claimant's FIP case was put into case closure effective March 1, 2009, in accordance with the mandatory noncooperation penalty specified in BEM Item 255, pg 11, which specifically states:

Any individual required to cooperate who fails to cooperate without good cause causes group ineligibility for a minimum of one month (underlined for emphasis).

(4) Claimant promptly cooperated with all good speed and the OCF notified her local office caseworker of this cooperation by written notice dated January 28, 2009 (Department Exhibit #1).

(5) OCS specified claimant's cooperation occurred that same date (1/28/09); nevertheless, claimant's FIP was closed for one month (March 2009) in compliance with the required policy penalty set forth above (See Finding of Fact #3).

(6) After claimant's one month penalty period expired the local office reopened her FIP case, effective April 1, 2010.

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 applicable departmental policy states:

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).

ROLE OF THE SUPPORT SPECIALIST

FIP, CDC Income Eligible, MA and FAP

Support Specialists (SS) work for the Office of Child Support (OCS) within DHS as the liaison between DHS and local officials by:

- Accepting referrals/applications for child support services on behalf of public assistance recipients, as well as from the general public.
- Obtaining absent parent information from clients.
- Reviewing and offering comment on good cause claims.
- Notifying you of clients' cooperation and/or noncooperation.

- Referring appropriate cases to the local prosecutor or the Friend of the Court (FOC).

Support Specialist Determines Cooperation

FIP, CDC Income Eligible, MA and FAP

The SS determines cooperation for required support actions. He/she will notify you of failure to cooperate.

Exception: You determine noncooperation for failure to return court-ordered support payments received after the payment effective date.

Cooperation is assumed unless and until you are notified of non-cooperation by OCS. The noncooperation continues until you are notified of cooperation by OCS or cooperation is no longer an eligibility factor. PEM 255, pp. 8-9.

FIP Disqualification

FIP

Any individual required to cooperate, who fails to cooperate without good cause, causes group ineligibility for a minimum of one month.

Application Denial

Deny FIP if any member required to cooperate has been determined noncooperative without good cause.

FIP Closure

Close FIP for a minimum of one calendar month when any member required to cooperate has been determined noncooperative with child support. Begin the disqualification effective with the first day of a month. (See "How Do I?" for specific instructions.)

Offer an in-person contact by home call, local office appointment or at a location mutually agreed upon by the client and worker during the negative action period. Encourage cooperation and make sure the person understands the consequences of his/her noncooperation during this contact. See PEM 200.

Determine continuing MA eligibility for all group members as part of the FIP closure process. A disqualified pregnant woman may still be eligible for MA. See “MA Member Disqualification” below. PEM 255, pp. 10-11.

The credible evidence of record verifies claimant’s FIP case was only closed in March 2009. All other monthly FIP issuances were received. At hearing, certain portions of the department’s child support policy were thoroughly reviewed. However, after fully researching the disputed issue in light of the complete policy before issuing this Hearing Decision, the presiding Administrative Law Judge discovered the department’s mandatory, one-month disqualification period cited above. Consequently, she finds the department had no alternative but to impose the one month sanction. As such, the department’s action must be upheld because it is in complete compliance with the department’s governing policy.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the department properly withheld FIP benefits from claimant in March 2009.

Accordingly, the department's action is AFFIRMED.

/s/ _____
Marlene B. Magyar
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: June 1, 2010

Date Mailed: June 2, 2010

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.

MBM/db

cc:

