

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. 2009-2071

Issue No. 1010

Case No:

Load:

Hearing Date:

December 1, 2008

Oakland County DHS

ADMINISTRATIVE LAW JUDGE: Judith Ralston Ellison

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 December 1, 2008 with Oakland County Department of Human Services (Department) office 2.

[REDACTED]

[REDACTED]

ISSUE

Whether the Department was correct in denying the Claimant's application for Family Independence Program (FIP) benefits for failure to appear in person for an interview?

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's file was transferred to Oakland County district 3 before the December 1, 2008 hearing was held; and the hearing was first scheduled at office 3 but office 3

adjourned the hearing; and administrative hearings re-scheduled to Oakland office 2; but by December 1, 2008, office 2 did not have a file.

(2) A FIP application was filed with office 2 on July 21, 2008; and a face-to-face interview was scheduled September 2, 2008 but the Claimant did not attend due to lack of transportation; and the Department denied the application September 10, 2008.

(3) The Claimant requested an administrative hearing on September 18, 2008.

CONCLUSIONS OF LAW

The Family Independence Program (FIP) was established pursuant to the Personnel Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 8 USC 601, *et seq.* The Department of Human Services (formerly known as the Family Independence Agency) administers the FIP program pursuant to MCL 400.1*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).

Policies and procedures relevant to this matter provide in part:

In-Person Interviews PAM 115, p. 12

FIP, SDA and FAP Only

You must conduct an in-person interview at application before approving benefits. The client/AR must sign and date the application in your presence, **even if** it was already signed. Sign and date the application as a witness.

For FIP and SDA, all adult program group members who are physically able, must be interviewed and must sign and date the application in your presence.

Home Calls All Programs PAM 115, p. 13

A home call may be used to verify eligibility factors in doubt. See “Helping Clients” under “**DEPARTMENT POLICY**” in this item.

Scheduling Interviews PAM 115, p. 14, 15

All Programs

Schedule interviews promptly to meet the standard of promptness. Record scheduled client interviews on ASSIST. See AUM 500.

ELIGIBILITY DECISIONS

Denials All Programs

If the group is ineligible **or** refuses to cooperate in the application process, send a denial notice within the standard of promptness.

Use the DHS-1150, Application Eligibility Notice, (DHS-4690 and DHS-198 for CDC, DHS-4598, Medical Program Eligibility Notice, for MA only or AMP-only) or LOA2 equivalent. See RFF.

NONCOMPLIANCE PENALTIES AT APPLICATION PEM 233A, pp. 6-7

Noncompliance by a WEI while the application is pending results in **group** ineligibility. A WEI applicant who refused employment without good cause, within 30 days prior to the date of application or while the application is pending must have benefits delayed. See “**Benefit Delay for Refusing Employment**” below.

Note: A non-WEI who does not complete the FAST within 30 days and the application is still pending is denied FIP. A good cause determination is not required for applicants who are noncompliant prior to FIP case opening.

In this matter, a request for hearing was submitted September 19, 2008; and the Department, of Madison Heights office 2 transferred the Claimant’s file to the Department of Walled Lake office 3, October 3, 2008. As noted in Fact 1, the Claimant’s file with documents

relevant to this hearing request, were not present for the hearing because they had been sent to Walled Lake office 3.

According to the Department of Madison Heights office 2, hearing summary, the Claimant refused a gas card sent for travel to office 2 for an in-person interview. The writer of the hearing summary [REDACTED] was not present for the hearing December 1, 2008.

The Claimant testified that the household does not have a car. But more troubling was the Claimant's testimony that the Walled Lake office 3 refused her application for FIP and told the Claimant to file the application in the Madison Heights office 2, her previous district. The Claimant testified, as confirmed by witnesses present, she moved to the location of Walled Lake office 3 in March 2008.

The Claimant's request for hearing alleged income problems and receipt of the proper amount of FAP benefits. The undersigned was unable to evaluate FAP amount due to the lack of documents now located in the Walled Lake office 3. The undersigned is of the opinion that both office 2 and 3 mishandled the FIP application process.

Based on competent, material and substantial evidence in the whole record, the undersigned finds the Department did not establish a proper basis for denying the July 21, 2008 FIP application under the facts and circumstances in this matter.

The ORDER should be implemented by the Oakland County office 3 because this office has the file.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law decides the Department was not correct in denying the Claimant's July 2008 Family Independence Program (FIP) benefit application.

Accordingly, it is ORDERED the decision of the Department is REVERSED.

Accordingly, the Department in Oakland County office 3, Walled Lake, is ORDERED to initiate a review of the July 2008 FIP application for eligibility; reimburse the Claimant for any missing FIP benefits, if any due from July 2008. Reimburse the Claimant for gas to travel to Madison Heights office 2. Notify the Claimant and her representative OCWRO in writing of the determination; and advise of appeal rights on all issues in this ORDER.

/s/ _____
Judith Ralston Ellison
Administrative Law Judge
For Ishmael Ahmed, Director
Department of Human Services

Date Signed 12/29/08

Date Mailed 01/06/09

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 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.

JRE

[REDACTED]