

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: 2009-2241
Issue No: 1025; 3008; 6015
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
April 14, 2009
Ingham County DHS

ADMINISTRATIVE LAW JUDGE: Robert J. Chavez

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 April 14, 2009.

ISSUE

Was the claimant's assistance application properly denied for failure to cooperate with the Office of Child Support?

FINDINGS OF FACT

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

(1) On 6-24-08, DHS received a notice of non-cooperation from the Office of Child Support regarding claimant's alleged failure to provide some unspecified information to the Prosecuting Attorney.

(2) On 7-10-08, claimant applied for FIP, FAP, CDC, and Medicaid.

(3) On 7-16-08, DHS ran a budget to disqualify claimant from FAP for the child support sanction.

(4) On 8-12-08, having not received a notice of cooperation from the Office of Child Support, DHS denied claimant's assistance application for FIP and CDC; claimant's Medicaid was already open and was not closed because claimant was pregnant.

(5) Claimant requested a hearing on 7-18-08 regarding the FAP disqualification, and potential denial of her assistance application.

CONCLUSIONS OF LAW

The Food Assistance Program (FAP) (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 (DHS or department) administers the FAP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3001-3015. Department policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

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 (DHS or department) 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).

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).

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. 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. PEM 255.

The Department contends that claimant was non-cooperative with a child support investigation, and for that reason, her application was denied.

However, beyond the initial letter indicating non-cooperation, the Department has failed to provide any evidence at all that claimant did not cooperate. In fact, the Department is unable to testify exactly how claimant did not cooperate. The letter of non-cooperation only states that claimant did not provide information to the prosecuting attorney; it did not say what that information was, and the Department did not know.

Therefore, the undersigned finds that the Department has not met its burden of proof in determining that the claimant was non-cooperative.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department's decision to deny claimant's assistance application was incorrect.

Accordingly, the Department's decision is, hereby, REVERSED.

The Department is ORDERED to process claimant's assistance application retroactively to the date of application, and remove the letter of non-cooperation from claimant's applicant file.

/s/

Robert J. Chavez
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: April 20, 2009

Date Mailed: April 22, 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.

RJC/cv

cc:

