

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: 2009-23760

Issue No: 1025

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

July 2, 2009

Washtenaw 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 July 2, 2009.

ISSUE

Was the claimant's FIP assistance properly cut off 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 2-25-09, DHS received a notice of noncooperation from the Office of Child Support regarding claimant's alleged failure to cooperate with the securing of a child support order against her children's father.

(2) On 3-10-09, DHS closed claimant's FIP case.

(3) On 5-20-09, having received a notice of cooperation from the Office of Child Support, DHS reopened all of claimant's benefits; however, benefits were still lost for the two-month period between March and May.

(4) Claimant requested a hearing on 5-14-09, arguing that she had been cooperative.

(5) Claimant had received an order of divorce, granted on 1-29-09, that placed a child support order on her children's father.

(6) Claimant was represented at hearing by [REDACTED]

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).

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 noncooperative with a child support investigation, and for that reason, her application was denied.

However, the Department has failed to provide any evidence whatsoever that claimant did not cooperate. In fact, the Department is unable to testify exactly how claimant did not cooperate. No letter of non-cooperation was presented, and all the Department was able to produce was a CIMS print out showing that claimant had been non-cooperative. As is sadly typical in these cases, the Office of Child Support did not testify to explain their actions, which, in light of evidence provided by the claimant, do not appear to have any bearing in reality.

Claimant has provided, as their sole exhibit, a Default Judgment of Divorce, Custody, Parenting Time and Child Support, certified by the Washtenaw County Circuit Court on 1-29-09. This order grants, among other things, an order of child support against the father of the claimant's children. What this means is that OCS pursued a noncooperation action against claimant for a failure to cooperate in securing child support for her children *when there was already a child support order on the claimant's case*. This information is prima facie evidence that a child support case was already open on this man, and thus, the Administrative Law Judge cannot understand in any way how the claimant came to the attention of OCS, or why OCS was even pursuing the claimant, given that the non-custodial parent is already in the system and being tracked. If OCS is unable to keep case records current with the Friend of the Court, perhaps OCS should look into fixing that flaw instead of engaging in witch-hunts against vulnerable claimants that result in undeserved material harm.

Claimant alleges that OCS was aware of the divorce and child support order, but OCS either did not understand the claimant (claimant is not fluent in English), or, as the undersigned feels is more likely, did not bother to investigate until several months later when they finally sent

out the notice rescinding the noncooperation notice, though by this time, claimant had already lost two months worth of benefits.

The Administrative Law Judge questions how this case got this far, in light of all these facts. The Department representatives were unable to answer that question, as OCS had not seen fit to enlighten them as to the situation. No evidence was presented beyond the letter of cooperation that showed that claimant cooperative—even though claimant should never have been pursued in the first place, given a few minutes of research could have turned up the child support order.

For these reasons, the undersigned finds that the claimant was clearly cooperative—all negative actions against the claimant should be removed.

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 cut off claimant's benefits was incorrect.

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

The Department is ORDERED to restore claimant's benefits retroactively to the date of negative action, and remove the letter of noncooperation from claimant's applicant file.

/s/

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

Date Signed: August 20, 2009

Date Mailed: August 20, 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:

