

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: 2009-33195
Issue No: 1025, 3014
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
October 14, 2009
Kent County DHS

ADMINISTRATIVE LAW JUDGE: Ivona Rairigh

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 October 14, 2009. Claimant personally appeared and testified.

ISSUE

1. Did the department correctly terminate claimant's Family Independence Program (FIP) benefits effective September, 2009?
2. Did the claimant receive correct amount of Food Assistance Program (FAP) benefits since February, 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, already a FIP recipient, had a new baby on January 16, 2009. Department did not take action to add the new baby to claimant's FIP case until July 29, 2009.

2. Department then added the new baby to claimant's FIP case effective February 1, 2009, and issued her a supplement of \$89 per month from February 1, 2009 through August 31, 2009 (monthly difference between FIP grant for 2 people claimant was receiving, \$403, and FIP grant with the new baby for 3 people, \$492).

3. Department also added the new baby to claimant's FAP case effective February 1, 2009 and issued her a FAP supplement of \$51 per month from February through April, 2009.

4. Claimant's FAP case closed at the end of May, 2009 as department determined she was living with her mother and had to be added to mother's FAP case because the claimant is under 22 years of age. Department added claimant's new baby to claimant's mother's FAP case effective May 1, 2009.

5. Department terminated claimant's FIP benefits effective September 1, 2009 due to claimant's alleged non-cooperating with Office of Child Support.

6. Claimant requested a hearing on July 30, 2009 stating that her new son has not been added to her case, and for "many more reasons".

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 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).

First issue in this hearing is claimant's alleged non-cooperation with the Office of Child Support (OCS). Claimant indicates that the father of her second child is the same person who fathered her first child, and therefore OCS already has all of the information about him. Department's representative indicates that review of the paperwork claimant has and review of claimant's file indicates that OCS has indeed determined that the claimant is cooperating in child support action. Claimant's FIP benefits will therefore be reinstated effective September 1, 2009, resulting in no break in such benefits to the claimant.

Claimant second issue is her FAP case. Claimant is under the age of 22 and as such must be included on a parent's FAP case if she is living with her parent. BEM 212. Claimant states that she was not living with her mother but here and there with friends, and was only using her mother's address to receive mail. Claimant gave her mother's address to the department as her own, and without having any other address department properly concluded that the claimant was indeed living with her mother. Furthermore, claimant testified that she was not aware that her mother received FAP benefits for her new son starting in May, 2009 (as the department had to close claimant's FAP benefits for herself and her other child before adding her and that child to her mother's FAP case). Claimant was also not aware that her mother has been receiving FAP

benefits for her and her two children starting in June, 2009. Claimant's mother therefore received an increase in her FAP benefits of several hundred dollars per month, but according to the claimant told her that the department had not given her any increased FAP benefits. While this situation is unfortunate, it is not something that the department has control over or that was due to any error on the part of the department. This is rather a personal matter between the claimant and her mother.

Claimant now reports a permanent residence and department has taken action to remove her and her two children from her mother's FAP case so she can receive her own FAP benefits again. Claimant was advised that if she finds herself without a permanent residence in the future, she may use DHS local office address to get her mail, or rent a post office box.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department, by its own admission, incorrectly terminated claimant's FIP benefits. Department has agreed on the record to reinstate such benefits effective September 1, 2009, and to issue the claimant any FIP benefits she was entitled to receive starting in this month.

Department did issue the claimant correct amount of FAP benefits from February to April, 2009, and furthermore correctly added the claimant and her two children to claimant's mother's case while the claimant was residing with the mother.

Accordingly, department's FAP action is AFFIRMED, and it is SO ORDERED.

/s/ _____
Ivona Rairigh
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: October 21, 2009

Date Mailed: October 26, 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 mailing 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.

IR [REDACTED]

cc:

[REDACTED]