

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: 2009-36831
Issue No: 1038; 1022; 1003;
6015
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
October 27, 2009
Midland 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 27, 2009. Claimant personally appeared and testified.

ISSUE

Did the department correctly deny claimant's July, 2009 Family Independence Program (FIP) and Child Development and Care (CDC) application?

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 applied for FIP and CDC on July 14, 2009, while already receiving Food Assistance Program (FAP) benefits for herself, [REDACTED] father of her twins, and [REDACTED] son and half-brother of the twins [REDACTED].

2. Claimant reported that [REDACTED] had moved out of the home and was advised that she would have to cooperate with child support requirements as a condition of her eligibility for FIP and CDC.

3. Department issued the claimant a Verification Checklist, DHS-3503, on August 4, 2009, requesting she provide certain verifications including a DHS-54-A, Medical Needs form (to verify her need for CDC as she claimed she was unable to care for her twins). Department also requested that the claimant contact child support unit to pursue child support.

4. On August 6, 2009, department issued a Jobs, Education and Training Appointment Notice for [REDACTED], scheduling appointments for this program on 3 different dates, as he was 16 years of age and not in school.

5. On August 6, 2009, claimant's caseworker received an e-mail from child support unit saying that the claimant will be in non-cooperation status as she became hostile during their conversation.

6. On August 28, 2009, claimant's caseworker also received an e-mail from JET Career Manager saying that [REDACTED] came through orientation on August 24, 2009, but has not showed up or called for the last 2 days.

7. Department denied claimant's FIP application due to [REDACTED] failure to comply with JET requirements and claimant's alleged child support noncooperation. Claimant's CDC application was also denied due to child support noncooperation. Claimant requested a hearing on September 14, 2009.

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).

Hearing testimony indicates that the claimant was considered to be cooperating with child support according to the notice received by her caseworker from child support unit on September 15, 2009. Therefore, child support noncooperation, even if questionable during the time claimant's FIP and CDC applications were pending, is not an issue that would necessarily prevent the claimant from being eligible for these programs. However, the fact that the half-brother of claimant's twins was in the home and failed to attend JET would impact her FIP eligibility. Departmental policy states:

FIP GROUP COMPOSITION

DEPARTMENT POLICY

FIP

Group composition is the determination of which persons living together are included in the FIP program group and the eligible group. To be eligible for FIP, a child must live with a caretaker.

**DEFINITIONS
DEFINITIONS**

Program Group

The **program group** means those persons living together whose income and assets must be counted in determining eligibility for assistance.

Note: Disqualified FIP members remain in the program group.

Eligible Group

The **eligible group** means those persons in the program group who meet all eligibility factors. **Exception:** Otherwise eligible persons who are serving an immunization penalty are included in the eligible group.

Caretaker

A **caretaker** is a parent, stepparent, or other person who acts as a parent to a dependent child by providing physical care and supervision of the child. See “Who May Be a Caretaker” later in this item.

Dependent Child

A **dependent child** is an unemancipated child who lives with a caretaker and is:

- . under age 18; **or**
- . age 18 or 19 and a full-time high school student expected to graduate before age 20.

Living Together

Living together means sharing a home where family members usually sleep except for temporary absences.

DETERMINING THE PROGRAM GROUP

Determine which persons living together to include in the program group. Some persons are required to be in the program group and other persons may request to be included in the program group. PEM, Item 210, p. 3.

Mandatory Group Members

When assistance is requested for a dependent child, each of the following who live together must be in the program group:

- . the child; and
- . the child’s parent(s); **and**
- . the child’s siblings who meet the definition of a dependent child (siblings have at least one common parent); **and**

- . the parent(s) of the siblings; **and**
- . the child's stepparent; **and**
- . the child's stepsiblings who meet the definition of a dependent child; **and**
- . the child's child.

Exceptions: Exclude the following persons from the program group:

- . SSI recipients.
- . Children's foster care recipients, including the child of a foster care recipient when the foster care payment includes an amount for the child's needs.

Refusal of any of the above to apply causes ineligibility for all of the others. A refusal to apply is the refusal of information needed to determine eligibility. There are circumstances in which a group does not include a dependent child. See "Groups With No Child" in this item. PEM, Item 210, p. 3.

Policy clearly requires that the half-brother of claimant's twins must be included in her FIP group. The half-brother was 16 years-old according to the hearing testimony and not attending school. Departmental policy further states:

DEPARTMENT POLICY

FIP, RAP Cash

All Family Independence Program (FIP) and Refugee Assistance Program (RAP) eligible adults and 16- and 17-year-olds **not** in high school full-time must be referred to the Jobs, Education and Training (JET) Program or other employment service provider, unless deferred or engaged in activities that meet participation requirements. These clients must participate in employment and/or self-sufficiency-related activities to increase their employability and to find employment. Apply FIP policy to RAP cash clients unless a separate RAP cash policy is mentioned.

JET is a program administered by the Michigan Department of Labor and Economic Growth (DLEG), Michigan Works System. The individual sites where clients report are the Michigan Works! Agency's (MWA's). The JET program serves employers and job seekers to ensure that employers have skilled workers and workers have good jobs that provide economic self-sufficiency.

A cash recipient who refuses, without good cause, to participate in assigned employment and/or self-sufficiency-related activities is subject to penalties. PEM 230A, p. 1.

Departmental policy further addresses penalties at application for noncompliance with the JET program and states that such noncompliance results in **group** ineligibility. BEM 233A.

JET noncompliance of [REDACTED], therefore resulted in FIP ineligibility for the claimant and her other children.

Second issue in this hearing is the CDC denial of claimant's CDC application. Claimant testified that she suffered from mental issues after the birth of her twins and needed someone to help her take care of them. Claimant had apparently filed a hearing request several months ago on a previous CDC denial; however this hearing can only address most recent CDC issue. In order for the claimant to have received CDC even if she was not subject to the child support sanction, she had to return verification detailing her need for CDC. Departmental policy states:

CDC PROGRAM REQUIREMENTS

PROGRAM OVERVIEW

The goal of the Child Development and Care (CDC) program is to preserve the family unit and to promote its economic independence and self-sufficiency by promoting safe, affordable, accessible, quality child care for qualified Michigan families.

The Department of Human Services (DHS) may provide payment for child care services for qualifying families when the parent(s)/substitute parent(s) is unavailable to provide the child care because of employment, education and/or because of a health/social condition for which treatment is being received and care is provided by an eligible provider. PEM, Item 703, p. 1.

INTRODUCTION

Eligibility for Child Development and Care services exists when the Department has established **all** of the following:

- . There is a **signed application** requesting CDC services, **and**
- . each parent/substitute parent (see Parent/Substitute Parent section in this item) is a member of a valid **ELIGIBILITY GROUP, and**
- . each parent/substitute parent (P/SP) meets the **NEED (Reason)** criteria as outlined in this item, **and**
- . an eligible provider is providing the care, **and**
- . all eligibility requirements are met. PEM, Item 703, p. 1

NEED

There are four CDC need reasons. Each parent/substitute parent of the child needing care must have a valid need reason during the time child care is requested. Each need reason must be verified and exists only when each parent/substitute parent is unavailable to provide the care because of:

- . Family Preservation
- . High school completion
- . An approved activity
- . Employment PEM, Item 703, p. 3

Family Preservation

Child Development and Care payments may be approved for P/SPs who are:

- . unavailable to provide care because they are participating in a treatment activity for their health or social condition; or
- . unavailable to provide care because they are required to participate in the treatment activity of another member of the CDC program group, the CDC applicant or the CDC applicant's spouse who lives in the home; or

- . unable to provide care due to a health condition or social condition for which they are being treated by a physician; or
- . unable to provide care due to an educational need which is part of the Foster Care Services plan. PEM, Item 703, p. 9.

Allowable conditions may include, but are not limited to the following:

- . disability
- . mental disturbance
- . chronic health conditions
- . drug/alcohol abuse
- . social isolation
- . history of child abuse/neglect in family - poor, inadequate parenting
- . budget mismanagement
- . domestic violence PEM Item 703, pp. 5-6.

The DHS-4575, Child Care Family Preservation Need Verification, must be used to document the Family Preservation day care need. The form must be signed by one of the following:

- . a physician (M.D. or D.O.); or
- . the DHS children's protective services, foster care services, or preventive services worker if day care is needed to allow a parent/substitute parent to participate in a treatment activity as a component of an active children's protective services or preventive services case plan; or
- . a clinical psychologist; or
- . a clinical social worker; or
- . the clinical supervisor or director of a substance abuse treatment program; or
- . a substance abuse counselor; or

- . the FIS for child care needed to participate in one of the allowable treatment activities if it is a FIS-assigned Family Support Services (FSS) activity. PEM, Item 703, pp. 6-7.

The DHS-4575 must be completed:

- . at application, required within 30 calendar days of CDC case opening; and
- . at redetermination; and
- . when there is a change in the parent/substitute parent's treatment schedule, activities or service plan. PEM, Item 703, p. 7.

Department did not give the claimant a DHS-4575 but a DHS-54-A, Medical Needs form that is commonly used to verify medical needs. Policy does require a completed DHS-4575, however if the claimant had returned the DHS-54-A department could not have refused to consider her CDC need based on that form, or would be required to give her additional time to have the DHS-4575 completed. Claimant did not return DHS-54-A, and could therefore not be approved for CDC without verification of CDC need.

Claimant may have her CDC need from previous months addressed in a hearing that would be scheduled on her previous hearing request regarding past CDC application. This Administrative Law Judge does not have any input in scheduling of thousands of hearing requests received on a weekly basis by SOAHR, and therefore cannot advise the claimant when such hearing will take place. However, claimant's FIP and CDC application of July, 2009 was denied correctly for the reasons stated.

Claimant states that [REDACTED] has moved out and [REDACTED] has moved back in with her, and was advised to re-apply for FIP on the day of the hearing, as her household has no income. Claimant stated she would do so.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department correctly denied claimant's July, 2009 FIP and CDC application.

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

/s/

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

Date Signed: November 5, 2009

Date Mailed: November 6, 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.

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