

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201025257
Issue No.: 1003
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: July 12, 2010
Wayne County DHS (17)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the claimant's request for a hearing. After due notice, a telephone hearing was held on July 12, 2010. The claimant appeared and testified. [REDACTED], Case Manager and [REDACTED], FIM appeared for the Department.

ISSUE

Whether the Department properly sanctioned the Claimants benefits by reducing their Food Assistance Program (FAP) benefits, closing the Claimant's Medical Assistance (MA), and Family Independence Programs (FIP) cases pursuant to a Notice of Non Cooperation for failure to provide the Department child support information.

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 was a FAP, MA and FIP recipient.
- 2) The Claimant's FAP was reduced and her MA and FIP cases closed because the Claimant was deemed non cooperative with regard to child support.
- 3) The Claimant never received the Notice of Non Cooperation by the Department and learned of it when she told her caseworker that she did not know why her benefits were terminated.

- 4) The Claimant's caseworker was aware that the claimant had been abused by her spouse.
- 5) The Department did not provide the specifics of the Claimant's alleged non cooperation and did not provide the actual Notice of Non Cooperation which was sent to the Claimant.
- 6) The Claimant immediately provided the Department's Office of Child Support the required information as soon as she learned they needed additional information.
- 7) The Claimant requested a hearing on March 1, 2010 after receiving a Notice of Case Action from the Department on February 24, 2010.
- 8) The Claimant requested a hearing regarding her MA and FIP case closure, and the reduction of her FAP benefits.

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 (formerly known as the Family Independence Agency) administers the FAP program pursuant to CML 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 Medical Assistance (MA) program is established by Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department of Human Services (DHS or department) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105. Department policies are found 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).

Notice of Non Cooperation and Sanctions

In the record presented, a question was raised as to whether the Claimant ever received the Notice of Non Cooperation. The notice itself was not made part of the hearing record by the Department. The Claimant credibly testified that she did not receive the Notice. The Claimant became aware of the closure of her FIP and MA and reduction of her food stamps only after she received a notice of case action advising her of same. Under these circumstances the Department has not sustained its burden of proof to show that it properly imposed sanctions, resulting in closure of the Claimant's Medical Assistance and FIP cases and reduction of her FAP benefits pursuant to BEM 255 for her non cooperation with disclosing child support information.

Additionally, because it is found that the Claimant did not receive notice of Non Cooperation the issue of whether she had good cause to not disclose the information was never raised even though the Claimant advised her caseworker of domestic abuse that she had suffered. The potential good cause for failing to respond was never explored by the Department, another basis to support the requirement that actual notice of actions to be taken by the Department are necessary before sanctions should be imposed. The basis for a claim of good cause is provided in BEM 255 at pages 3 and 4 and provides as follows:

Cases in which there is danger of physical or emotional harm to the child or client. Physical or emotional harm may result if the client or child has been subject to or is in danger of:

Physical acts that resulted in, or threatened to result in, physical injury.

Sexual abuse.

Sexual activity involving a dependent child.

Being forced as the caretaker relative of a dependent child to engage in nonconsensual sexual acts or activities.

Threats of, or attempts at, physical or sexual abuse.

Mental abuse.

Neglect or deprivation of medical care.

Under these circumstances the Departments decision to issue a Notice of Non Cooperation and implement the appropriate sanctions is also questioned given the fact that the Claimant's caseworker had knowledge of the domestic violence.

Accordingly, based upon the foregoing facts and relevant law, it is found that the Claimant's failure to respond to the Notice of Non Cooperation was because she did not receive the Notice. This decision was also influenced by the fact that the Claimant immediately remedied the request for information by the Department when her caseworker explained the situation. Therefore, the Department's action with regard to its action affecting the Claimant's MA and FIP closure and reduction of the Claimant's FAP benefits by her removal from her FAP group is REVERSED.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law finds that the Claimant did not receive the Notice of Non Cooperation with child support and therefore should not have been sanctioned for non cooperation. The Notice of Non Cooperation and the actions taken with regard to the Claimant FAP benefits and closure of the Claimant's Medical Assistance and FIP cases is incorrect and is hereby REVERSED.

Accordingly, it is ORDERED:

The Department's issuance of the Notice of Non Cooperation and Notice of Case Action is REVERSED and the reduction of the Claimant's FAP benefits and closure of her Medical Assistance and FIP cases for the month of April 2010 is also set aside.

The Department is ordered to reinstate the Claimant's FIP and MA cases effective April 1, 2010 and to supplement the Claimant for any benefits she was otherwise entitled to receive.

The Claimant's FAP benefits are also to be recalculated for the month of April, beginning April 1, 2010 and the Department is ordered to supplement the Claimant for FAP benefits during that period that she was otherwise entitled to receive.



Lynn M. Ferris
Administrative Law Judge
For Ismael Ahmed, Director
Department of Human Services

Date Signed: 07/13/2010

Date Mailed: 07/13/2010

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 60 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 of the rehearing decision.

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