

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: 2010-15873
Issue No: 1025
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
May 26, 2010
Oakland County DHS

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 conducted from Detroit, Michigan on May 26, 2010. The Claimant appeared and testified along with her mother, [REDACTED]. David Hill, FIS – ES appeared for the Department.

ISSUE

Whether the Department properly denied the Claimant's application for FIP cash assistance and the Food Assistance Program (FAP) in September 2009.

FINDINGS OF FACT

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

1. The Claimant receives SSI and is a Medicaid recipient. The Claimant also receives FIP and FAP as of April 2010.
2. The Claimant applied for FAP (food assistance), FIP (cash assistance) and Medicaid in September 2009

3. The Claimant's application for FIP and FAP was denied because of a preexisting sanction imposed on the claimant for failing to disclose and cooperate with the Department in discovering the paternity of her child.
4. The sanction was imposed by DHS on November 18, 2008. Exhibit 1
5. The sanction was lifted by DHS on December 15, 2009 and a notice of the sanction being lifted was sent to the Claimant's address of record, [REDACTED], which was different from her current address, but the last address known to the Department. Exhibit 2
6. The claimant moved to [REDACTED] (new address) on December 5, 2009 but no verification of the address was provided by the Claimant until January 12, 2009. Exhibit3
7. The claimant testified that she did not receive the December 15, 2009 letter lifting the sanction for non cooperation with paternity. The Claimant said she filed a change of address with the post office.
8. The Notice of hearing was sent to the Claimant's old address, [REDACTED] n.
9. At the hearing, the Department agreed to reinstate and supplement the Claimant's FAP benefits retroactive to January 1, 2010 because the preexisting sanction had been lifted.
10. The Notice of Case Action received by the Claimant, December 1, 2009, indicated her FIP was denied as was her Medicaid. The Claimant's Medicaid never closed as she is an SSI recipient and was entitled to Medicaid and her Medicaid benefits were not affected by the Notice of Case Action. Exhibit 4 and Exhibit 5.

11. The Claimant reapplied for FIP and FAP on April 12, 2010 and was deemed eligible.
12. On December 15, 2009, the Department received the Claimant's hearing request protesting the closure of the FIP benefits.

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 (formerly known as the Family Independence Agency) 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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Program Reference Manual (PRM).

In the record presented, there was no question that the Claimant was aware that there was a sanction imposed pursuant to BEM 255 for her non cooperation with disclosing the identity of the father of her child. The Claimant also was aware that the sanction against her receiving benefits would be lifted as she had cooperated and provided the requested information regarding paternity. The Claimant was also responsible to provide the Department notice of her moving within 10 days, BAM 130, and was responsible to reapply for her FIP cash assistance. The Department was responsible to reinstate the Claimant's FAP benefits once the sanctions were lifted December 16, 2009 and agreed, during the hearing, to reinstate and supplement the Claimant's FAP benefits retro active to January 1, 2010.

As regards to the Claimant's Medicaid benefits, the claimant was eligible to receive Medicaid as a result of her SSI recipient status. Although the Notice of Case Action was

confusing, the claimant, at no time, lost her Medicaid coverage nor did she have to apply for Medicaid in September 2009.

The only issue which remains is the status of the claimant's FIP benefits after the sanction was lifted and whether she is entitled to receive benefits retroactive to January 1, 2010. After a thorough review of the record, it is deemed that the claimant is not entitled to receive retroactive FIP benefits as she did not apply until April 2010.

The claimant was in a very good position to know that her sanction had been lifted as she had to have personally communicated with the Agency representative to disclose the paternity of her child. Additionally, the claimant has not demonstrated that she did not receive the letter lifting the sanctions notwithstanding her moving from her old address. This is the case for two reasons. First, the claimant testified that she filed a change of address and therefore should have received the letter. Secondly, the claimant was in a position, as previously stated, to be aware that the sanction was about to be lifted. Lastly, a letter properly addressed to the claimant's last known address is by law presumed to have been received, unless for some reason the claimant can show that other mail was not received or there was a problem with the mail. In this case, no such proofs were shown by the claimant and thus the presumption that the letter was properly addressed and mailed and therefore received by the claimant, notwithstanding that she had moved, has not been overcome. Unfortunately, claimant did not follow up with her caseworker to determine that she could have applied sooner for her FIP benefits.

Under these circumstances, it is determined that the Department, as regards the denial of claimant's FIP and FAP application in September 2009, was correct.

Accordingly, based upon the foregoing facts and relevant law, it is found that the denial of the Claimant's FIP application was correct and is further found that the Department's denial of the Claimant's application denying the Claimant's FAP benefits was also correct, as the

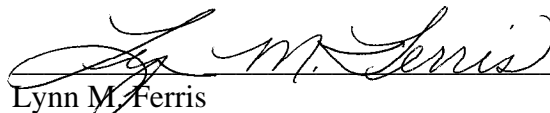
previously imposed sanction was still in effect. Therefore, the Department's action is AFFIRMED. In regards to the Claimant's Medicaid, it is found that the Claimant's Medicaid benefits were not affected by the Notice of Case Action denying the claimant's application for Medicaid. Lastly, with regard to the Claimant's FAP benefits, the Department has agreed to retroactively reinstate and supplement the claimant's FAP benefits to January 1, 2010

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department properly denied the Claimant's FIP (cash) and FAP applications in September 2009 and that the denial of her Medicaid did not affect her Medicaid as she was already eligible as an SSI recipient.

Accordingly, it is ORDERED:

1. The Department's denial of the claimant's application for FIP and FAP is AFFIRMED.
2. With regard to the claimant's FAP benefits, the Department has agreed and offered to reinstate the Claimant's FAP benefits retroactive to January 1, 2010 and supplement the claimant's benefits accordingly.
3. As previously stated, the claimant's Medicaid benefits were unaffected by the denial of the claimant's application for Medicaid in September 2009.



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

Date Signed: 06/28/10

Date Mailed: 07/01/10

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.

LMF/dj

cc:

