

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.: 201022696
Issue No.: 3000/1005/1025
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: July 1, 2010
Macomb County DHS (20)

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 1, 2010. The claimant appeared and testified. [REDACTED] ES and [REDACTED], Jet Case Manager appeared for the Department.

ISSUE

1. Whether the Department properly sanctioned the Claimants benefits by sanctioning Food Assistance (FAP) benefits and closing the Claimant's Medical Assistance (MA) pursuant to a Notice of Non Cooperation for failure to provide the Department child support information regarding the noncustodial parent.
2. Whether the Claimant's hearing request was timely with regard to the denial of the Claimant's FIP (cash assistance) for failure to attend Work First.

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 and MA recipient.
- 2) The Claimant's FAP was reduced and her MA case closed because the Claimant failed to respond to requests for information sent to her by the Department regarding her child's non custodial parent. Exhibit 1

- 3) The Claimant was sent a Notice of Non Cooperation by the Department on December 16, 2009. Exhibit 2
- 4) The Claimant did not respond to the Department's two prior requests for information and also did not respond to the Notice of Non Cooperation because she thought they already had the information and she thought the letters she acknowledged receiving were about child support.
- 5) The Claimant was advised on her hearing request regarding the Notice of Non Cooperation that she was required to file her hearing request by 1/4/10 so her benefits would be reinstated or continued at their former level. The Claimant did not request her hearing until February 8, 2010. Exhibit 3
- 6) As of the date of the hearing the Claimant had not provided the Department with the requested information.
- 7) The Claimant did not demonstrate good cause for her non cooperation in disclosing her child's non custodial parent's information requested by the Department.
- 8) The Claimant filed a Request for Hearing on February 8, 2010 which was received by the Department on February 10, 2010. The Claimant requested a hearing regarding her FIP application denial, closure of her Medical Assistance case, and the reduction of her FAP benefits.
- 9) The Claimant applied for FIP benefits on September 15, 2009 and her application was denied by Notice of Case Action dated October 7, 2009. The Claimant's application for FIP was denied because she failed to attend the Work First Orientation on September 28, 2009.
- 10) The Claimant's request for a hearing regarding the Department's Denial of her FIP application, was not timely. The Claimant had 90 days from The October 7, 2009 Notice of Case Action to file her hearing request. The Claimant did not file her request within the 90 days and therefore her request for hearing regarding the denial of her FIP application must be dismissed.
- 11) As a result of the Department's finding of Non Cooperation with child support information, the Claimant's FAP benefits were reduced as she was removed from her FAP group, and the Claimant's MA benefits were terminated.

- 12) The Claimant timely requested a hearing regarding the Notice of Non Cooperation and the reduction in her FAP benefits and MA closure.

CONCLUSIONS OF LAW

Family Independence Program

Under Bridges Administrative Manual Item 600, clients have the right to contest any negative agency decision affecting eligibility or benefit levels whenever they believe the decision is illegal. Claimant's have 90 days from the date of the action to request a hearing.

However, claimant's hearing request specifically requested a hearing based upon the closure of the Claimant's FIP application as a result a Notice of Case Action dated October 7, 2010. Claimant's hearing request dated February 8, 2010 and received by the Department February 10, 2010 was made over 90 days after the date of the Department's decision and action.

Due to the fact that the Claimant's request for hearing was made well after the 90 period for filing a hearing request, the request was untimely and must be dismissed. There is no case for the Administrative Law Judge to consider. Claimant's hearing request is untimely. Claimant's request for hearing must be dismissed for lack of jurisdiction.

Notice of Non Cooperation and Sanctions

In the record presented, there was no question that the Claimant was aware that that her FAP and MA cases closed for her failure to respond to the Notice of Non Compliance in a timely manner. The Department properly imposed the sanctions, resulting in closure of the Claimant's Medical Assistance case and reduction of her FAP benefits pursuant to BEM 255 for her non cooperation with disclosing the identity and other information regarding her child's non custodial parent. The Claimant did not demonstrate good cause for failing to respond to the Department's request. The Claimant did not indicate that the child's safety and welfare would be jeopardized by the release of the information.

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.

Nothing in the testimony offered by the Claimant at the hearing would indicate or support a basis of a finding of good cause and in fact the Claimant indicated that she would provide the Department with the requested information immediately. Under these circumstances the Department's decision to issue a Notice of Non Cooperation and implement the appropriate sanctions is correct. Unfortunately, the Claimant failed to take action to respond to the Department's requests for information and her benefits closed. If in fact the Claimant did not understand the letters properly, this was not the Department's fault as the Claimant did not contact the Department or otherwise seek assistance in understanding what was requested of her and its effect.

The Claimant may choose to reapply for her MA, FIP cash assistance and an increase in FAP as soon as the information requested by the Department regarding the non custodial parent is provided, and the sanction is then lifted by the Department.

Accordingly, based upon the foregoing facts and relevant law, it is found that the Claimant's failure to file her hearing request regarding the denial of her FIP application in a timely manner must result in the dismissal of that part of her request for a hearing as untimely.

Therefore, the Department's action is AFFIRMED with regard to its action affecting the Claimant's FAP and MA.

DECISION AND ORDER

The Administrative Law Judge based upon the above findings of fact and conclusions of law finds that the Department properly issued a Notice of Non Cooperation dated December 16, 2009 and its actions with regard to the Claimant's FAP benefits and closure of the Claimant's Medical Assistance Benefits is correct and AFFIRMED.

The Claimant's request for a hearing regarding the Department's denial of the Claimant's FIP (cash) is dismissed as untimely.

Accordingly, it is ORDERED:

1. The Department's issuance of the Notice of Non Cooperation is AFFIRMED and the reduction of the Claimant's FAP benefits and closure of her Medical Assistance is also AFFIRMED.
2. The Claimant's Request for Hearing regarding the department's denial of her FIP application is hereby DISMISSED.



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

Date Signed: 07/12/2010

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.

LMF/jlg

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