

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: 201028223
Issue No: 3008; 1003
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
May 26, 2010
Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Robert J. Chavez

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 hearing was held on May 26, 2010.

ISSUE

Was the claimant's FAP and FIP assistance properly closed for failure to cooperate with the Office of Child Support?

FINDINGS OF FACT

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

- (1) On January 4, 2010, DHS received a notice of non-cooperation from the Office of Child Support regarding claimant's alleged failure to attend an appointment for genetic testing in 2004.
- (2) Claimant was a FAP and FIP benefit recipient.

- (3) Claimant was notified that her FAP and FIP case would close effective February 1, 2010.
- (4) Claimant requested a hearing on March 22, 2010, arguing that she had been cooperative.
- (5) OCS did not testify at the hearing.
- (6) DHS had attempted to contact OCS prior to the hearing but was unable to reach a specialist.
- (7) Claimant was unaware of any genetic testing appointments or non-cooperation letters. She knew the identity of the father of her children and is currently in the middle of pursuing a child support action against him.
- (8) No documentation or any other evidence was presented at the hearing with regard to the alleged non-cooperation.
- (9) Claimant wishes to seek child support from the non-custodial parent.

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 (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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM).

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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM).

Regulations governing the Office of Child Support (OCS) can be found in the IV-D Manual (4DM).

Clients must comply with all requests for action or information needed to establish paternity and/or obtain child support on behalf of children for whom they receive assistance, unless a claim of good cause for not cooperating has been granted or is pending. Failure to cooperate without good cause results in disqualification. Disqualification includes member removal, denial of program benefits, and/or case closure, depending on the program. BEM 255.

Non-cooperation exists when a client, without good cause, willfully and repeatedly fails or refuses to provide information and/or take an action resulting in delays or prevention of support action. 4DM 115.

Before finding a client non-cooperative, the Support Specialist must establish and document that the client failed and/or refused to provide known or obtainable information and/or to take an action without an acceptable reason or excuse. 4DM 115. The goal of the cooperation requirement is to obtain support. Support specialists should find non-cooperation only as a last resort. There is no minimum information requirement. 4DM 115.

In order to prove its case, OCS must provide documentation of the information and/or action requested of the client and that the client knew or could obtain the information or comply with the requested action. 4DM 115.

OCS contends that claimant was non-cooperative with a child support investigation by failing to attend a genetic testing appointment, and for that reason, her benefits were ceased.

However, beyond the initial letter indicating non-cooperation, the Department has failed to provide any evidence at all that claimant did not cooperate. The IV-D manual requires that OCS document exactly how the claimant was non-cooperative. No such documentation was ever presented. Furthermore, the manual states that OCS must present this documentation at a hearing in order to meet its burden of proof. It did not. It did not even send an officer to testify as to the alleged non-cooperation.

The notice of non-cooperation was placed in claimant's file on February 2, 2007, for an action that allegedly occurred in 2004. If the claimant had been non-cooperative in 2004, the undersigned does not understand why it took 3 years for OCS to make that determination. No evidence was presented that claimant was aware of these appointments, and no evidence was presented as to the need for these appointments. Furthermore, claimant testified during hearing that she had notified OCS as to the identity of the father of her children, and testified that she was currently pursuing a support action against the person in question.

Therefore, there is no evidence of any sort to support a finding of non-cooperation.

For these reasons, the undersigned finds that the Department has not met its burden of proof in determining that the claimant was non-cooperative—all negative actions against the claimant should be removed.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department's decision to close claimant's FAP and FIP case was incorrect.

Accordingly, the Department's decision is, hereby, REVERSED.

The Department is ORDERED to restore claimant's benefits retroactively to the date of negative action, and remove the letter of non-cooperation from claimant's Department file.



Robert J. Chavez
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 06/29/10

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.

RJC/dj

cc:

