

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: 201048827

Issue No: 1005

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

November 17, 2010

Macomb 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 November 17, 2010.

ISSUE

Was the claimant's FIP assistance properly closed for a 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) DHS received a notice of non-cooperation from the Office of Child Support regarding claimant's alleged failure to provide information required to pursue child support.
- (2) Claimant allegedly had failed to respond to two requests for information.

- (3) Claimant never received the information requests.
- (4) The Department did not provide information as to the necessity of the requests.
- (5) Claimant was an FIP benefit recipient.
- (6) Claimant was notified that her FIP case would close effective May 1, 2010, due to the alleged non-cooperation.
- (7) Claimant requested a hearing on June 29, 2010, arguing that she had been cooperative.
- (8) OCS did not testify at the hearing.
- (9) No documentation or any other evidence was presented at the hearing with regard to the alleged non-cooperation.

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 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, but did not provide any of the evidence required by the policy above.

Beyond claimant's non-cooperation status, the Department has failed to provide any evidence 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, but, according to testimony, does not document in any manner the exact nature of the non-cooperation, beyond a vague statement that claimant had not responded to a letter. No evidence was presented that claimant needed to respond to the letters, whether the letters were necessary for the pursuit of child support, or whether the claimant was in possession of information necessary to the pursuit of child support. The Department representatives could not testify to the exact nature of the non-cooperation. Furthermore, claimant testified during hearing that she had provided OCS with all information requested of her when she was aware of the need for information.

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

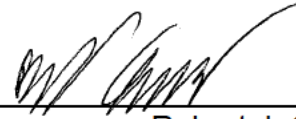
For these reasons, the undersigned finds that the Department has not met its burden of proof in determining that the claimant was non-cooperative—all negative actions against the claimant should be removed.

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 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: 11/24/10

Date Mailed: 12/02/10

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:

