

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: 2010-1425
Issue No: 1038; 3008; 5008
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
November 5, 2009
Ingham County DHS

ADMINISTRATIVE LAW JUDGE: Suzanne L. Keegstra

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 telephone hearing was held on November 5, 2009. The claimant personally appeared and provided testimony.

ISSUES

1. Did the department properly deny the claimant's Family Independence Program (FIP) application for failure to attend Work First/Jobs, Education and Training in June, 2009?
2. Did the department properly deny the claimant's State Emergency Relief (SER) application in August, 2009 due to Office of Child Support (OCS) noncooperation?
3. Did the department properly disqualify the claimant from the FAP group due to the OCS noncooperation in August, 2009?

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 applied for FIP, MA, CDC and FAP benefits on April 28, 2009. (Department Exhibit 53 – 59).
2. The claimant was mailed a JET Appointment Notice (DHS-4785) on May 26, 2009, scheduling her for WF/JET orientation on June 8, 2009. (Department Exhibit 34).
3. The claimant was allowed to leave orientation on June 8, 2009 due to daycare issues and was told to return on June 15, 2009 for orientation. (Department Exhibit 42).
4. The claimant was a no call/no show for orientation that week. (Department Exhibit 42)
5. The department mailed the claimant a Notice of Case Action (DHS-1605) on June 20, 2009, informing the claimant her application for FIP benefits was denied due to failure to participate with WF/JET. (Department Exhibit 31 – 32)
6. On July 8, 2009, the claimant and the department was mailed a Noncooperation Notice from the OCS. The document indicated the claimant was considered noncompliant because she had missed two interviews with the Prosecuting Attorney's office, on May 12 and June 9, 2009. (Department Exhibit 26)
7. On August 26, 2009, the claimant submitted an application for SER. (Department Exhibit 46 – 52)
8. On September 1, 2009, the department mailed the claimant a SER Decision Notice (DHS-1419), denying her request for SER services due to a child support noncompliance through the OCS. (Department Exhibit 43 – 44)
9. In August and September, the claimant called the department and left several messages concerning her benefits. The department attempted to return the telephone calls to Eve's house and then left messages for the claimant on her sister's telephone number. The

department's messages indicated that the claimant had to resolve the issue of the OCS noncooperation before the claimant could be added back into the FAP group and SER could be considered. (Department Exhibit 5, 11, 16, 18 – 20).

10. On September 14, 2009, the claimant came into the local office for a Redetermination interview. The claimant was informed that she needed to cooperate and meet with the Prosecutor's office to be in cooperation status. (Department 6 – 10).

11. On October 1, 2009, the OCS mailed the claimant and the department a Cooperation Notice, indicating the claimant was now considered compliant with paternity/support issues. The department did add the claimant back into the program group at that time. (Department Exhibit 4)

12. The claimant submitted a hearing request on September 9, 2009.

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 Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

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 Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

The State Emergency Relief (SER) program is established by 2004 PA 344. The SER program is administered pursuant to MCL 400.10, *et seq.*, and by final administrative rules filed with the Secretary of State on October 28, 1993. MAC R 400.7001-400.7049. Department of Human Services (DHS or department) policies are found in the State Emergency Relief Manual (SER).

Department policy states:

DEPARTMENT PHILOSOPHY

Families are strengthened when children's needs are met. Parents have a responsibility to meet their children's needs by providing support and/or cooperating with the department including the Office of Child Support (OCS), the Friend of the Court and the prosecuting attorney to establish paternity and/or obtain support from an absent parent. PEM 255, p. 1.

DEPARTMENT POLICY

FIP, CDC Income Eligible, MA and FAP

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.

Absent parents are required to support their children. Support includes **all** the following:

- . Child support
- . Medical support
- . Payment for medical care from any third party.

Note: For purposes of this item, a parent who does not live with the child due solely to the parent's active duty in a uniformed service of the U.S. is considered to be living in the child's home.

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.

Exception: A pregnant woman who fails to cooperate may still be eligible for MA.

GOOD CAUSE FOR NOT COOPERATING

FIP, CDC Income Eligible, MA and FAP

Exceptions to the cooperation requirement are allowed for all child support actions **except** failure to return court-ordered support payments received after the payment effective date. Grant good cause **only** if:

- requiring cooperation/support action is against the child's best interests, **and**
- there is a specific "good cause" reason.

If good cause exists, cooperation is excused as an eligibility requirement for the child involved. It can still be required for another child in the same family. PEM 255, pp. 1-2.

Good Cause Reasons

FIP, CDC Income Eligible, MA and FAP

There are two types of good cause:

- Cases in which establishing paternity/securing support would harm the child. Do **not** require cooperation/support action in any of the following circumstances.
 - .. The child was conceived due to incest or forcible rape.
 - .. Legal proceedings for the adoption of the child are pending before a court.
 - .. The client is currently receiving counseling from a public or licensed private social agency to decide if the child should be released for adoption, **and** the counseling has **not** gone on for more than three months.

- . 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. PEM 255, pp. 2-3.

COOPERATION

FIP, CDC Income Eligible, MA and FAP

Cooperation is a condition of eligibility. The following persons in the eligible group are required to cooperate in establishing paternity and obtaining support, unless good cause has been granted or is pending.

- . Grantee and spouse.
- . Specified relative/person acting as a parent and spouse.
- . Parent of the child for whom paternity and/or support action is required.

Cooperation is required in all phases of the process to establish paternity and obtain support and includes **all** of the following:

- . Contacting the SS when requested.
- . Providing all known information about the absent parent.
- . Appearing at the office of the prosecuting attorney when requested.

- . Taking any actions needed to establish paternity and obtain child support (e.g., testifying at hearings or obtaining blood tests).

SUPPORT DISQUALIFICATION

FIP, CDC Income Eligible, MA and FAP

You will be notified of a client's failure to cooperate by the SS or the child support noncooperation report. Start the support disqualification procedure upon receipt of this notice.

Do **not** impose the disqualification if any of the following occur during the negative action period:

- . You are notified by OCS that the client has cooperated.
- . The case closes for another reason.
- . The noncooperative person leaves the group.
- . Support/paternity action is no longer a factor in the child's eligibility (e.g., the child leaves the group).
- . **For disqualifications based on failure to return court-ordered support**, the client cooperates with the requirement of returning court-ordered support payments or the support order is certified. PEM 255, p. 9.

NONCOMPLIANCE PENALTIES AT APPLICATION

Noncompliance by a WEI while the application is pending results in **group** ineligibility. A WEI applicant who refused employment without good cause, within 30 days prior to the date of application or while the application is pending must have benefits delayed.

When to Disqualify

- . Disqualify a FAP group member for noncompliance when:
- . The client was active both FIP and FAP on the date of the FIP noncompliance, and
- . The client did not comply with FIP employment requirements, and

- . The client is not deferred from FAP work requirements (see DEFERRALS in PEM 230B), and the client did not have good cause for the noncompliance. PEM 233B, p. 1.

In this case, the claimant does not dispute that she did not attend WF/JET orientation, but indicates that she had medical reasons for her noncompliance. The claimant presented medical documentation showing she was in the hospital from [REDACTED] through [REDACTED] and was seen as an outpatient on [REDACTED] and [REDACTED] (See Department Exhibits 21 -22). Another doctor's note indicates that the claimant was under the physician's care from [REDACTED] through [REDACTED] and can return to work on July 3, 2009 (See Department Exhibit 23). However, the claimant was required to attend WF/JET on June 15, 2009. The claimant has provided no medical documentation for this date.

Department policy indicates that any noncompliance during the time period the FIP application is pending will result in denial of the application. BEM 233A. In this case, the claimant was noncompliant as she did not attend the WF/JET orientation. She presented no documentation to the department to establish a good cause reason to reschedule the WF/JET orientation. Thus, the department properly denied her FIP application.

The claimant's next hearing issue is her SER application denial due to alleged OCS noncooperation. The claimant disputes her noncompliance status by indicating that she was prevented from cooperating with the OCS due to medical reasons and issues of domestic violence.

The claimant was placed on noncooperation status by the OCS because she missed two scheduled appointments with the Prosecuting Attorney's office, on [REDACTED] and [REDACTED]. This letter was mailed to her on [REDACTED]. The claimant admits that she did receive the letter concerning the OCS noncooperation. The above-mentioned medical

documentation does not cover either of these dates. Thus, there is no medical documentation to show that the claimant was precluded from attending the appointments.

The claimant also testified that she was in a physically abusive situation that prevented her from attending the appointments. The claimant testified that she was going to go to the appointment scheduled on June 9, 2009, but that she ended up fighting with [REDACTED] right before the appointment and didn't call to reschedule because she was in the hospital. The department indicates that the claimant provided a no contact order for [REDACTED] dated [REDACTED] and a copy of a personal protection order dated [REDACTED]. However, both of these are dated well after the two Prosecuting Attorney appointments. There is no documentation showing the claimant received any medical treatment on either of the scheduled appointment dates.

Further, it is important to note that [REDACTED] is not the child's father. Department policy allows good cause to be considered if cooperating with the OCS could cause danger of physical or emotional harm to the child or client, if the child is being adopted or if the child was conceived due to incest or rape. BEM 255. There is no documentation that the claimant and the child's father, [REDACTED], have had any domestic violence issues. The department was notified of domestic violence issues in 2009 with [REDACTED] and in 2005 for [REDACTED]. Thus, there does not appear to be any basis for a determination of good cause for the claimant to not cooperate with OCS.

Department policy indicates that an SER group must take reasonable action to obtain potential resources including program benefits under FIP. ERM 203. The policy further states that when an SER group member has been denied or terminated assistance for failure to comply, when able, with a procedural requirement of FIP, the group is not eligible for SER. ERM 203.

In this case, the claimant is determined to have been able to comply with the requirements of the OCS. In fact, the claimant did eventually cooperate and was found to be in cooperation with OCS in a letter dated October 1, 2009. Since the claimant did not comply with a procedural requirement to obtain a potential source of income, i.e. FIP benefits, the department properly denied her SER application.

The claimant's last hearing issue concerns being disqualified from the FAP group for the OCS noncooperation. Department policy indicates that a claimant will be disqualified from the FAP program group when found noncompliant with FIP requirements and having no other basis for a FAP deferral. BEM 233B. The claimant does not meet the policy criteria for any FAP deferral basis (i.e. she does not have a child under the age of six). Thus, the department properly disqualified the claimant from the FAP group upon the FIP noncompliance.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides

1. The department properly denied the claimant's FIP application for failure to attend Work First/Jobs, Education and Training in June, 2009.
2. The department properly denied the claimant's State Emergency Relief (SER) application in August, 2009 due to Office of Child Support (OCS) noncooperation.
3. The department properly disqualified the claimant from the FAP group due to the OCS noncooperation in August, 2009.

Accordingly, the department's actions are UPHeld. SO ORDERED.

/s/
Suzanne L. Keegstra
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: February 18, 2010

Date Mailed: February 22, 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 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.

SLK 

cc:

