

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: 2010-31916
Issue No: 1025; 1022; 3014
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
May 20, 2010
Dickinson 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 May 20, 2010. The claimant personally appeared and provided testimony, along with her husband, [REDACTED]

ISSUES

1. Did the department properly add the claimant's children back into the program group for Family Independence Program (FIP)/Food Assistance Program (FAP) benefits when they were returned to her custody?
2. Did the department properly close the claimant's FIP case for an Office of Child Support (OCS) noncooperation sanction?

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 was receiving FIP and FAP benefits when the claimant's three

children were removed from the claimant's custody via a court order on December 29, 2009.

(Department Exhibit 5)

2. The department processed the change on December 22, 2009 and removed the children from the claimant's FIP and FAP case. (Department Exhibit 6)

3. On January 4, 2010, one of the children was returned to the claimant's custody. On January 14, 2010, the department added the child back into the claimant's program group for FIP and FAP benefits. (Department Exhibit 5, 9)

4. On January 29, 2010, the department received a Noncooperation Notice from the OCS. (Department Exhibit 13, 21 - 22)

5. On February 1, 2010, the department entered the noncompliance on the claimant's case. (Department Exhibit 14)

6. The claimant was mailed a Notice of Case Action (DHS-1605) on February 1, 2010, informing her that her FIP was closing and her FAP program group would be reduced to one beginning March 1, 2010. (Department Exhibit 15 - 20)

7. The claimant's other two children were returned to the claimant's home on February 4, 2010. (Department Exhibit 5)

8. The claimant/department was issued a Cooperation Notice on February 16, 2010, from the OCS. (Department Exhibit 23)

9. On February 19, 2010, the department added the claimant and all children back into the FAP group. FIP had already pending to close. (Department Exhibit 25)

10. The claimant reapplied for FIP benefits on February 26, 2010. The claimant was approved to receive FIP benefits. (Department Exhibit 27 - 30)

11. The claimant submitted a hearing request on April 21, 2010.

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

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.

FIP

All rights to past, current and future child support paid for a FIP recipient must be assigned to the state as a condition of FIP eligibility. Spousal support included in a child support order must also be assigned. PEM 255, p. 1.

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).

FIP

Cooperation includes repaying to the department any court-ordered support payments received after the payment effective date.

Support Specialist Determines Cooperation

FIP, CDC Income Eligible, MA and FAP

The SS determines cooperation for required support actions. He/she will notify you of failure to cooperate.

Exception: You determine noncooperation for failure to return court-ordered support payments received after the payment effective date.

Cooperation is assumed unless and until you are notified of non-cooperation by OCS. The noncooperation continues until you are notified of cooperation by OCS or cooperation is no longer an eligibility factor. PEM 255, pp. 8-9.

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.

FIP Closure

Close FIP for a minimum of one calendar month when any member required to cooperate has been determined noncooperative with child support.

Removing a Support Disqualification

FIP, CDC Income Eligible, MA and FAP

Ask a disqualified person at application, redetermination or reinstatement if he/she is willing to cooperate. A disqualified person may indicate willingness to cooperate at any time.

Do **not** restore benefits to a disqualified person or reopen FIP or CDC income eligibility until the noncooperating person cooperates or support/paternity action is no longer needed. End the disqualification when:

- . You are notified by OCS that the client has cooperated, or
- . Support/paternity action is no longer a factor in the child's eligibility (e.g., child leaves the group), or
- . For **FIP only**, the client cooperates with the requirement of returning court-ordered support payments, or the support order has been certified.

For **FIP and FAP only**, make sure that the minimum one-month disqualification has been served before restoring benefits or reopening. PEM 255, p. 12.

Department policy indicates that the department is to provide adequate, written notice to a claimant when a child is removed from the program group by court action. BAM 220. The claimant's three children were removed from her custody on December 19, 2009 by court order. On December 22, 2009, the department removed the children from the claimant's FIP and FAP program group in accordance with this policy.

The children were returned to the claimant's custody on two different dates. The youngest was returned to the claimant on January 4, 2010. The department added the claimant's child back into the program group on January 14, 2010. The action taken by the department was timely. However, department policy indicates that when a group member is added to the program group and the addition will result in a grant increase, the change will take effect the month after the month the change occurred. BEM 515. Thus, when the department added the youngest child back into the program group on January 14, 2010, the change would not take effect until February, 2010. The Bridges Eligibility Summary shows that the claimant did receive FIP benefits for two group members for February, 2010.

Much like FIP member additions, FAP member additions that increase benefits also take effect the month after it is reported. BEM 550. The claimant did also receive FAP benefits for two program members for February, 2010. Thus, the department properly added the first child to the FIP and FAP benefits.

The department next received a Noncooperation Notice for the claimant from the OCS. Department policy requires the department to sanction a claimant from benefits for OCS noncooperation. BEM 255. Thus, the department pended the claimant's FIP to close due to the OCS noncooperation. The claimant did not become compliant with OCS requirements until February 16, 2010. On February 29, 2010, the sanction was removed, but the FIP case had

already pending to close, so the claimant was advised to reapply for FIP benefits. The claimant did reapply for FIP on February 26, 2010 and was approved to receive benefits beginning March 16, 2010 for all four group members.

On February 4, 2010, the claimant's other two children were returned to her custody. As above, these member additions would result in a grant increase and department policy indicates the change will take effect the month after reported. The department did add the other two children to the claimant's FAP case for the month of March, 2010, as shown by the Bridges Eligibility Summary that shows the claimant received FAP benefits for four group members in March, 2010.

The other dispute the claimant has with the department's action is the OCS finding her noncompliant. The claimant testified that she called J. Whitehead, OCS Specialist, several times to try and talk to her. The claimant stated that she could submit telephone records to show that she had made attempts to call the worker. The record was left open until June 3, 2010 to allow the claimant to submit telephone records showing she had called the specialist. The claimant failed to submit any telephone records to support her testimony. Thus, the claimant presents no evidence to dispute the detailed records of the OCS Specialist showing the claimant did not cooperate with requests for information. Thus, this Administrative Law Judge finds that the claimant was properly sanctioned due to a support noncooperation.

DECISION AND ORDER

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

1. The department properly added the claimant's children back into the program group for Family Independence Program (FIP)/Food Assistance Program (FAP) benefits when they were returned to her custody.

2. The department properly closed the claimant's FIP case for an Office of Child Support (OCS) noncooperation sanction.

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: June 23, 2010

Date Mailed: June 24, 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.

[REDACTED]

cc:

[REDACTED]