

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: 2010-35161
Issue No: 1025
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
July 22, 2010
Genesee County DHS

ADMINISTRATIVE LAW JUDGE: Kevin Scully

HEARING DECISION

This matter is before the undersigned Administrative Law Judge by authority of MCL 400.9 and MCL 400.37. Claimant's request for a hearing was received on April 30, 2010. After due notice, a telephone hearing was held on Thursday, July 22, 2010.

ISSUE

Whether the Department of Human Services (Department) properly determined the Claimant's Family Independence Program (FIP) eligibility?

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 12, 2010, the Department sent the Claimant a Redetermination notice and scheduled an in-person interview for February 11, 2010.

(2) The Department rescheduled the in-person interview from February 11, 2010, to February 18, 2010, because the Claimant's caseworker was in training on February 11, 2010.

(3) On February 12, 2010, the Department sent the Claimant notice that her benefits would be terminated effective March 1, 2010, for failure to cooperate in the redetermination process.

(4) The Claimant participated in an in-person redetermination interview on February 18, 2010.

(5) On March 19, 2010, the Department sent the Claimant notice that it could cut her benefits for failure to cooperate with the Department's Office of Child Support.

(6) The Department reinstated the Claimant's FIP benefits on March 22, 2010, and referred the Claimant to the JET program beginning on March 29, 2010.

(7) On April 8, 2010, the Department terminated the Claimant's FIP benefits for failure to cooperate with the Office of Child Support.

(8) On April 13, 2010, the Department notified the Claimant that it considered her cooperative with the Office of Child Support.

(9) The Department received the Claimant's request for a hearing on April 30, 2010, protesting the termination of her FIP benefits on April 8, 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), Reference Table Manual (RFT), and the Bridges Reference Manual (BRM).

Clients must cooperate with the local office in determining initial and ongoing eligibility. This includes the completion of necessary forms. BAM 105, p. 5. Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements. BAM 130, p. 1. Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level when it is required by policy, required as a local office option, or information regarding an eligibility factor is unclear, inconsistent, incomplete, or contradictory. BAM 130, p. 1. The Department uses documents, collateral contacts, or home calls to verify information. BAM 130, p. 1. A collateral contact is a direct contact with a person, organization, or agency to verify information from the client. BAM 130, p. 2. When documentation is not available, or clarification is needed, collateral contact may be necessary. BAM 130.

Cooperation is a condition of eligibility for FIP benefits for a parent of the child for whom paternity and/or support action is required. BEM 255.

On January 12, 2010, the Department sent the Claimant a Redetermination notice and scheduled an in-person interview for February 11, 2010. The Department rescheduled this interview for February 18, 2010, and the Claimant attended this interview. Before the interview, the Department's computer system sent the Claimant a notice that her benefits would be terminated effective March 1, 2010, for failure to cooperate with the redetermination process.

The Department reinstated the Claimant's FIP benefits on March 22, 2010, and discovered that she was a work eligible person because her deferral had expired. The Department referred the Claimant to the JET program and scheduled her programming to begin on March 29, 2010.

However, the Claimant's caseworker received a memorandum dated March 16, 2010, which alleges that the Claimant has been non-cooperative with the Department's Office of Child Support. Cooperation with the Office of Child Support is a condition of receiving FIP benefits. The Department terminated the Claimant's FIP benefits on April 18, 2010, for failure to cooperate with the Office of Child Support.

The Claimant argued that she had cooperated with the Office of Child Support at all times. The Department failed to offer any evidence or testimony supporting its claim that the Claimant did not cooperate with the Office of Child Support other than the memorandum dated March 16, 2010.

The Department failed to establish that the Claimant failed to cooperate with the Office of Child Support. The Department failed to establish that it acted in accordance with policy when it terminated the Claimant's FIP benefits.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department failed to establish that it properly terminated the Claimant's FIP benefits for failure to cooperate with the Office of Child Support..

Accordingly, the Department's FIP eligibility determination is REVERSED. It is further ORDERED that the Department shall:

1. Allow the Claimant the opportunity to clarify whether she had complied with the Office of Child Support before March 16, 2010.
2. If the Claimant can establish that she complied with the office of Child Support, remove the negative action from the Claimant's case file.

3. If the Claimant can establish that she complied with the office of Child Support, initiate a determination of the Claimant's eligibility for FIP benefits as of March 1, 2010.
4. Notify the Claimant in writing of the Department's revised eligibility determination.
5. Issue the Claimant any retroactive benefits she may be eligible to receive, if any.

/s/

Kevin Scully
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: August 2, 2010

Date Mailed: August 3, 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 date of the rehearing decision.

KS/vc

cc:

[REDACTED]