

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.: 2010-53230
Issue No.: 1025
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: December 1, 2010
Wayne County DHS (76)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the claimant's request for a hearing. After due notice, a telephone hearing was held on December 1, 2010. The claimant appeared and testified. [REDACTED], FIS appeared for the Department.

ISSUE

Whether the Department properly closed denied the Claimant's FIP cash assistance case and due to non-cooperation by the claimant?

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 an ongoing recipient of FIP benefits.
2. The Claimant's FIP case was closed due to noncooperation for failing to have her children genetically tested.
3. The department improperly closed the Claimant's FIP case due to noncooperation.
4. The Claimant provided the department with the information regarding the paternity of the children and was waiting genetic testing but had not received any communication from the Wayne County Prosecutor's Office scheduling genetic testing as of the date of the hearing.

5. The Claimant provided all the information she was requested to provide to the department and was cooperating with the department to determine the paternity of her children. The claimant did not refuse to cooperate.
6. The Claimant's FIP benefits case closed in August 2010 due to noncooperation.
7. On September 1, 2010, the Department received the Claimant's hearing request protesting the closure of the FIP benefits due to noncooperation with child support and the sanction imposed closing her FIP case.

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 (formerly known as the Family Independence Agency) administers the FIP program pursuant to MCL 400.10, *et seq.*, and MAC R400.3101-3131. 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).

In the record presented, there was no question that the Claimant had done everything she had been requested to do, including providing the department with the information requested relative to the paternity of the four children which are the subject of this matter. The claimant had not, as of the date of the hearing, heard from the Wayne County prosecutor's office and has not refused to cooperate with the department's request that her children undergo genetic testing. Based upon these facts, it is determined that the claimant's FIP case was incorrectly closed and that the claimant has cooperated with every request made by the department.

It is not the claimant's fault that the Wayne County Prosecutor's Office has failed to contact her regarding genetic testing, a situation not within her control. The claimant indicated she was willing to have her children genetically tested but had not received any communication setting up the appointment requiring her to do so.

Based on these facts and circumstances and the record as the whole, it is found that the department was in error to close the claimant's FIP case and that the claimant should not have been sanctioned for noncooperation. The Department was responsible to follow up with the claimant under these circumstances as she had provided the department with all the information available to her and had agreed to have her children tested. When this did not occur, the remedy was not to continue to keep the case closed as the claimant had no control over whether the Wayne County Prosecutor

would schedule genetic testing. The outcome of this matter would have been different had the claimant refused testing or missed an appointment, but such was not the case. Therefore it is determined at the claimant must reinstate the claimant's FAP benefits retroactive to the date of closure in August 2010, and supplement the claimant for any FIP benefits she was otherwise entitled to receive.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department incorrectly closed the claimant's FIP (cash assistance) case; it is required to reopen and reinstate the case, as the claimant cannot be deemed to be non-cooperative. Therefore the department's determination that the claimant was non-cooperative is hereby REVERSED.

Accordingly, it is ORDERED:

The Department's shall reopen the claimant's FIP case retroactive to the date of closure in August 2010 and shall supplement the claimant for any FIP benefits from the date of closure that the claimant was otherwise entitled to receive.



Lynn M. Ferris
Administrative Law Judge
For Ismael Ahmed, Director
Department of Human Services

Date Signed: 12/6/2010

Date Mailed: 12/6/2010

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.

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