

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: 20105856
Issue No: 3008
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
December 16, 2009
Oakland County DHS

ADMINISTRATIVE LAW JUDGE: Jeanne M. VanderHeide

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 received on October 14, 2009. After due notice, a telephone hearing was conducted in Detroit, Michigan on December 16, 2009. The Claimant appeared and testified. Myra Milton, AP Supervisor, and Michelle White, ES Worker, appeared on behalf of the Department.

ISSUE

Whether the Claimant failed to cooperate with the Department in identifying the non-custodial parent resulting in the removal of the Claimant from the FAP group and a subsequent decrease in FAP benefits?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Claimant was an active FAP recipient.

2. Claimant was contacted by letter by the Office of Child support in August of 2009.
3. Claimant testified that she was initially confused as to what was required of her but responded to the Office of Child Support in October of 2009. She left a message at that time.
4. Claimant testified that since that time, she has tried to contact the Office of Child Support no less than 10 times, without a response to her voice mails.
5. Claimant testified that she did not hear anything else from the Office of Child Support.
6. On 8/19/09, the office of Child Support sent Claimant a non cooperation notice which indicates that Claimant was in non-cooperative because of “your failure to respond to two letters to contact this office . . . In addition, you failed to provide me with identifying information about the non-custodial parent, such as full legal name, date of birth, Social Security number, last-known address, last known employer and physical description. (Exhibit 1).
7. No testimony was offered from anyone at the Office of Child Support.
8. Claimant was removed from the FAP case effective 10/1/09.
9. Claimant’s benefits have been affected since 10/1/09.
10. On October 14, 2009, the Department received the Claimant’s written request for a hearing protesting the negative action.

CONCLUSIONS OF LAW

The Food Assistance Program, 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”), formally known as the Family Independence Agency, administers the FAP program pursuant to MCL 400.10, *et. seq.* and MAC R 400.3001-3015. Departmental policies are found in the Program Administrative Manual (“PAM”), the Program Eligibility Manual (“PEM”), Bridges Eligibility Manual (“BEM”), Bridges Administrative Manual (“BAM”) and the Program Reference Manual (“PRM”).

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. BEM 255, p. 1. Failure to cooperate without good cause results in disqualification. BEM 255, p. 1. If good cause exists, cooperation is excused as an eligibility requirement for the child involved. BEM 255, p. 2.

The Claimant testified credibly that that she contacted the Child Support Specialist at the Michigan Office of Child Support in October of 2009 and attempted to provide the requested information. The Department did not present any evidence to indicate why Claimant’s telephone calls were not returned. Claimant further testified that she was willing to provide the information as requested. Accordingly, the Department’s removal of the Claimant from the FAP and FIP cases for noncompliance is not upheld.

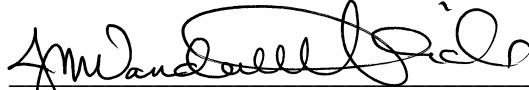
DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department improperly removed Claimant from the FAP group for non-cooperation.

Accordingly, it is ORDERED:

1. The Department’s removal of the Claimant from the FAP group 10/09 through the present is REVERSED.

2. The Department shall delete the negative action of 10/1/09, recalculate Claimant's FAP benefits from 10/09 through the present and supplement the Claimant for any lost benefits she was otherwise entitled to receive in accordance with department policy.



Jeanne M. VanderHeide
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 12/22/09

Date Mailed: 01/06/09

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.

JV/dj

cc:

