

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: 2010-8970
Issue No: 1022
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
July 20, 2010
Muskegon 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 hearing was held on July 20, 2010. The claimant personally appeared and provided testimony. The record was left open until August 3, 2010 to allow the department to submit clarification regarding the children's custodial status.

ISSUE

Did the department properly deny the claimant's Family Independence Program (FIP) application?

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 department closed the claimant's FIP case because her children were removed from her custody. (Department Exhibit 19)

2. The claimant reapplied for FIP benefits multiple times stating that the children were now in her home. (Department Exhibit 19)

3. The department denied each of these applications because the children were not in the home and there were no plans to return the children to their mother. (Department Exhibit 21– 22)

4. The claimant submitted a hearing request to protest the department's actions.

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).

Department policy indicates that individuals are only eligible for FIP benefits when a child lives with the parent, stepparent or other qualifying caretaker. BEM 210. The parent must be the primary caretaker of the child. BEM 210. In this case, the claimant's FIP case was closed because her children were removed from her home and placed into foster care. The claimant then subsequently applied for FIP multiple times and was denied each time because the children were not in the home.

The claimant testified at this hearing that she had regained custody of the children prior to reapplying for FIP benefits. The claimant indicated that she had court orders showing she now had custody of the children. The department workers were asked to fax me the claimant's

documents at the completion of the hearing. The department was also asked to fax the claimant's hearing request as it was not in this Administrative Law Judge's file. However, this Administrative Law Judge did not receive the claimant's exhibits or hearing request.

Further, the record was left open until August 3, 2010, to allow the department to clarify the children's custodial status with Child Protective Services (CPS) workers or the foster care workers. This Administrative Law Judge did not receive any further information from the department within the extension time period.

The two department workers were emailed on August 20, 2010 and again requested to provide the claimant's exhibits and the requested follow-up information. A response was received from the Family Independence Manager (FIM) that indicated she would follow-up with the worker on Monday August 23, 2010. This Administrative Law Judge has received no further communications from either department worker.

Thus, this Administrative Law Judge is completely without the necessary information to make a determination as to if the department acted in accordance with department policy. Thus, the department will need to reprocess the claimant's application, after getting information on the children's custodial status.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department did not properly deny the claimant's FIP application.

Accordingly, the department's determination is REVERSED. The department shall:

1. Investigate the children's status to see if they were/are in the custody of their mother or if there is any plan to return them to the custody of their mother.
2. Re-process the claimant's FIP application with the information on custodial status.

3. Issue the claimant a written decision notifying her of the reasons for the department's determination.

SO ORDERED.

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

Date Signed: August 27, 2010

Date Mailed: August 30, 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 

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