

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg No: 2011-13379
Issue No: 1025
Case No: [REDACTED]
Hearing Date:
February 14, 2011
Wayne County DHS (57)

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 has conducted from Detroit, Michigan on February 14, 2011. The Claimant appeared and testified. Lorraine Walton, FIS appeared for the Department.

ISSUE

Whether the Department properly closed the Claimant's FIP cash assistance case due to non-cooperation with child support by the claimant.

FINDINGS OF FACT

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

1. The Claimant applied for FAP and FIP cash assistance on October 8, 2010 and a case was opened and the claimant received benefits for November 2010, and then her Case closed due to non cooperation with child support.

2. In October 2010, the Claimant reported a change of address to the Department. The claimant's address was reported as [REDACTED]. At the hearing, the Claimant testified that her address was [REDACTED].
3. On September 16, 2009, the Claimant was sent a notice of non cooperation which she did not receive. The address where the notice was sent was sent to her mother's address. Her mother no longer lives at that address.
4. The Department could not explain why the Claimant received a notice from child support when she had no case open in September 2009, and did not indicate that the Claimant's mother's case closed or was otherwise affected due to the claimant's non cooperation with child support.
5. The Claimant's case was improperly closed due to non cooperation with child support as she did not receive the notice of non cooperation.
6. The Claimant filed a hearing request on November 24, 2010. The Department received the Claimant's hearing request protesting the closure of the FIP benefits due to noncooperation with child support stating she never received any paper's regarding 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 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 Bridges Program Reference Manual (PRM).

In the record presented, the question is whether the Claimant received the notice of non cooperation with child support. Given the fact that nothing happened with any benefits as no case was open for the Claimant until October 2010 when she first applied for FIP, and because the Department could not explain why the notice was issued without a FIP case being opened, the Department has not met its burden of proof that the FIP case should have closed due to non cooperation. This decision is also based on the Claimant's credible testimony that she did not receive the Notice of non cooperation.

Based on these facts and circumstances and the record as the whole it is found that the Department was in error in closing the claimant's FIP case, and that the claimant should not have been sanctioned for noncooperation as she never received notice. The Claimant did not contact the office of Child Support because she never received the notice. The first "notice" the Claimant received was the Notice of case action which closed her case which was first opened over one year after the Notice of Non Compliance. Therefore it is determined that the Department must reinstate the claimant's FIP benefits retroactive to the date of closure in December 2010 and issue the Claimant a new Notice of Non Cooperation to the correct address set forth in this decision Findings of Fact.

DECISION AND ORDER

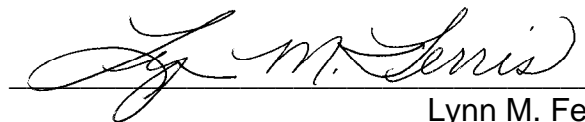
The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department incorrectly closed the claimant's FIP (cash assistance) case due to non cooperation and is required to reopen and reinstate the Claimant's FIP case and correct any reduction in the Claimant's FAP benefits which may have occurred due to the sanction for non cooperation with child support. The Department's determination to close the Claimant's FIP case was in error and its determination is REVERSED.

Accordingly, it is ORDERED:

The Department's shall reopen the claimant's FIP case retroactive to the date of closure in December 2010. The Department shall be required to supplement the Claimant for any FIP benefits from the Closure to the date of this decision. The Department shall also be required to correct any reduction in the claimant's FAP benefits which resulted from a finding of Non cooperation with child support and shall supplement the Claimant from the date of its action due to non cooperation through the date of this decision.

The Department shall send the Claimant a new notice of non cooperation to [REDACTED]

[REDACTED], which is the Claimant's current address.



Lynn M. Ferris
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: 02/28/11

Date Mailed: 03/01/11

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.

LMF/dj

cc: B. Walton
Wayne County DHS (Dist #57) / DHS-1843
M. Coxon
T. Drain
L. Ferris
Administrative Hearings