

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

IN THE MATTER OF:



Reg. No: 201010102
Issue No: 5008
Case No: [REDACTED]
Hearing Date: March 24, 2011
Midland County DHS

ADMINISTRATIVE LAW JUDGE: Janice G. Spodarek

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, an in-person hearing was held on March 24, 2011.

ISSUE

Did the DHS properly deny claimant's SER application on the grounds that she failed to cooperate with child support?

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 November 28, 2010, the DHS denied claimant's SER application for the following reason: "You or a group member failed to cooperate with child support requirements."
2. The department had no record of the application date for SER.
3. On December 1, 2010, claimant filed a timely hearing request.
4. Claimant had a prior FIP denial in October, 2010 for a child support sanction. Pursuant to that denial, claimant contacted the department on October 25, 2010. Claimant also had conversations with child support on November 10, 2010 and November 18, 2010.
5. The child support division appeared by conference telephone.
6. The child support department stated that claimant has been in sanction since August 11, 2010.

7. Child support testified that claimant gave no information on the purported father. The local office as well as claimant presented credible documentation at the administrative hearing which makes the child support's testimony not credible. Claimant filed a DHS 842 on July 20, 2009 and another on September 27, 2010. Claimant also filed a DHS 842 on September 27 with the [REDACTED] and [REDACTED]
8. Child support admitted that if it had these documents, such would go towards the issue of cooperation.
9. Information submitted by claimant in 2009 as well as 2010 is now dated and may be tainted due to time.
10. On April 19, 2010, claimant filed a different hearing request to contest a prior FIP denial. On August 11, 2010, claimant had a hearing before Administrative Law Judge Landis Lain. At that administrative hearing, the child support division was not present, did not give testimony, and were not available for cross-examination. Judge Lain upheld the department. This decision and the time period covered by Judge Lain's decision is not reviewed herein.
11. Claimant subsequently requested a rehearing on Judge Lain's denial which was denied by supervisory Administrative Law Judge Nelson-Davis, not at issue herein.
12. The department submitted child support BEM Item 255 as support. BEM 255 does not mention SER.

CONCLUSIONS OF LAW

The State Emergency Relief (SER) program is established by 2004 PA 344. The SER program is administered pursuant to MCL 400.10, *et seq.*, and by final administrative rules filed with the Secretary of State on October 28, 1993. MAC R 400.7001-400.7049. Department of Human Services (DHS or department) policies are found in the State Emergency Relief Manual (SER).

The department's denial notice as well as the department's hearing summary states that the applicable policy and procedure herein is BEM Item 255. BEM Item does not mention SER.

Evidence shows that claimant filed a DHS 824 on July 20, 2009. Claimant also filed a DHS 824 on September 27, 2010. Claimant also filed a copy of a DHS 824 with the [REDACTED] and [REDACTED] on September 27, 2010. The evidence shows that claimant cooperated; the evidence shows that child support was not cooperating with claimant.

After careful review of the substantial and credible evidence on the whole record, this Administrative Law Judge finds that claimant has cooperated with child support. By child support's own admission, the evidence brought forth at the administrative hearing goes toward showing cooperation. The department's actions are reversed.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department's actions were incorrect.

Accordingly, the department is Ordered to find claimant in cooperation status with the child support office. The department is Ordered to reinstate claimant's SER application for a utility shutoff and to reprocess this case in accordance with its usual policy and procedure. The department shall issue notice to claimant informing her of the outcome of her SER application for utility shutoff in August or July, 2010. It is noted that the department had no record of the application date.

/s/

Janice G. Spodarek
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: April 13,2011

Date Mailed: April 14,2011

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.

201110102/jgs

JGS/db

cc:

