

STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]
[REDACTED]
[REDACTED]

Reg. No: 201117824
Issue No: 1025
Case No: [REDACTED]

Hearing Date:
May 11, 2011
Ingham County DHS

ADMINISTRATIVE LAW JUDGE: Kevin Scully

HEARING DECISION

This matter is before the undersigned Administrative Law Judge by authority of MCL 400.9 and MCL 400.37. Claimant's request for a hearing was received on November 19, 2010. After due notice, a telephone hearing was held on Wednesday, May 11, 2011. The Claimant was present for the hearing, and was represented by her attorney. The Claimant's attorney agreed to allow the Department's representative to act as an interpreter for the Claimant.

ISSUE

Whether the Department of Human Services (Department) properly determined the Claimant's Family Independence Program (FIP) eligibility?

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 received the Claimant's application for Family Independence Program (FIP) benefits on September 10, 2010.
2. The Claimant is fluent in Spanish, but not English.
3. On July 24, 2009, the Department's Office of Child Support notified the Claimant in English that she was considered to be non-cooperative for failing to respond to two contact letters sent on June 11, 2009, and July 4, 2009. This letter

identified [REDACTED] as the non-custodial parent, and [REDACTED] as the subjects of the child support inquiry.

4. On September 13, 2010, the Department sent the Claimant a Verification Checklist with a due date of September 23, 2010. The Department notice included instructions in Spanish to provide the Department with verification of her cooperation with the Office of Child Support.
5. On October 27, 2010, the Department determined that the Claimant continued to be non-cooperative with the Office of Child Support. The Department notified the Claimant that it would terminate her Family Independence Program (FIP) benefits as of October 1, 2010.
6. The Department received the Claimant's request for a hearing on 11/19/2010, protesting the termination of her Family Independence Program (FIP) benefits. The request was received 23 days after the Department sent its notice of case action.

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), Reference Table Manual (RFT), and the Bridges Reference Manual (BRM).

Clients must cooperate with the local office in determining initial and ongoing eligibility. This includes the completion of necessary forms. BAM 105. Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements. BAM 130. Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level when it is required by policy, required as a local office option, or information regarding an eligibility factor is unclear, inconsistent, incomplete, or contradictory. BAM 130. The Department uses documents, collateral contacts, or home calls to verify information. BAM 130. A collateral contact is a direct contact with a person, organization, or agency to verify information from the client. BAM 130. When documentation is not available, or clarification is needed, collateral contact may be necessary. BAM 130.

Clients are allowed ten calendar days to provide the verifications requested by the Department. BAM 130. The Department should send a negative action notice when the client indicates a refusal to provide the verification, or the time period provided has lapsed and the client has not made a reasonable effort to provide it. BAM 130. The

Department should extend the time limit no more than once if the client cannot provide the verification despite a reasonable effort. BAM 130.

The head of household and the parent of children 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

Failure to cooperate without good cause results in ineligibility for benefits. Bridges will close or deny benefits when a child support non-cooperation record exists and there is no corresponding comply date. BEM 255.

In this case, the Claimant applied for Family Independence Program (FIP) benefits on September 10, 2010. The Claimant is fluent in Spanish, but not English.

On July 24, 2009, the Department's Office of Child Support notified the Claimant, in English, that she was considered to be non-cooperative for failing to respond to two contact letters sent on June 11, 2009, and July 4, 2009. This letter identified [REDACTED] as the non-custodial parent, and [REDACTED] as the subjects of the child support inquiries.

On September 13, 2010, the Department sent the Claimant a Verification Checklist (DHS-3503) with a due date of September 23, 2010. The Department notice included instructions in Spanish to provide the Department with verification of her cooperation with the Office of Child Support.

On October 27, 2010, the Department determined that the Claimant continued to be non-cooperative with the Office of Child Support, with respect to [REDACTED] and [REDACTED]. The Department notified the Claimant that it would terminate her Family Independence Program (FIP) benefits as of October 1, 2010.

The Claimant argued that she has always cooperated with the Office of Child Support. The Claimant testified that she has always supplied the Department with all the information it has requested.

The Claimant's representative argued that the Department's notice that the Claimant was considered to be non-cooperative on July 24, 2009, was printed in English only, and the Claimant was understand what the Department wanted her to do. The Claimant testified that she was not aware of any requests by the Department for her to provide information in June of 2009, or July of 2009, that she had not cooperated with.

However, whether the Claimant was non-cooperative with the Office of Child Support on July 24, 2009, is not relevant to the Department's actions on October 27, 2010. At issue in this case, is whether the Department properly denied Family Independence Program (FIP) benefits on October 27, 2010, because it found the Claimant to be non-cooperative with the Office of Child Support.

The Verification Checklist, sent on September 13, 2010, in Spanish, should have put the Claimant on notice that the Office of Child Support considered her to be non-cooperative. Although the Claimant may have personally believed that she had fully cooperated with the Office of Child Support, the Verification Checklist instructed her to contact the Office of Child Support where she could have addressed any misunderstandings.

Regardless of whether the Claimant believed that she had cooperated with the Office of Child Support, she had a duty to respond to the Verification Checklist with information necessary for the Department to determine her eligibility to receive benefits. The Department had no information to accompany the Claimant's September 10, 2010, application for benefits to determine that the Claimant was cooperative with the Office of Child Support. Therefore, when the Claimant did not respond to the Verification Checklist, request an extension to the due date, or request assistance with providing the necessary verification material, the Department closed the Claimant's benefits case for failure to provide information necessary to determine her eligibility to receive benefits.

Based on the evidence and testimony available during the hearing, the Department has established that the Department properly determined the Claimant's eligibility for the Family Independence Program (FIP).

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department acted in accordance with policy in determining the Claimant's FAP eligibility.

The Department's FAP eligibility determination is AFFIRMED. It is SO ORDERED.

/s/ _____
Kevin Scully
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: May 23, 2011

Date Mailed: May 23, 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 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.

KS/tg

cc:

