

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

IN THE MATTER OF:



Reg. No: 201119811
Issue No: 1025
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 FIP application of October 11, 2010 on the grounds that claimant was in a non-cooperative status for 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 October 11, 2010, claimant applied for cash assistance.
2. On November 28, 2010, the DHS denied claimant stating that she has been in child support sanction.
3. The hearing summary states: "Per verification, claimant had until November 29, 2010 to contact child support regarding a child support sanction already imposed...to date claimant has not come in to compliance with child support requirements..."

4. Claimant in fact contacted child support on October 25, November 10, and November 18, 2010.
5. Child support testified claimant has never indicated anything of substantial information on the purported father. Contrary evidence at the administrative hearing shows that claimant filed DHS 842s in 2009 and 2010. Claimant also filed a DHS 842 on September 27, 2010 with the [REDACTED] and the [REDACTED] e.
6. On August 11, 2010, Judge Landis Lain issued a Decision and Order Reg No 201032319 upholding the department's child support sanction for non-cooperation pursuant to a FIP closure. Child support was not present at the administrative hearing for testimony and/or cross-examination.
7. Child support indicated that had it had the DHS 842s at the time that it was filed, it could have contacted the employer claimant listed on there for the purported father. Child support has never done so. The information is now dated.

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 Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

The undersigned Administrative Law Judge finds the information presented at the administrative hearing, as well as the coordination between the local office and the child support sanction incompetent. As noted in the Findings of Fact, the department first testified that claimant did not call child support after receiving the denial giving her information as to cooperation. Claimant presented contrary information and phone contacts on three different occasions. Moreover, when child support sanction indicated that it received no information on the reported father, the undersigned Administrative Law Judge specifically questioned the child support division with regards to the DHS 842s in two separate years and the purported employer address. Child support denied having received these documents. At the same time, the DHS admitted that the documents were present in claimant's file and had been there since 2009. Clear and convincing information on the documents is that they were in fact received and date stamped in 2009 as well as 2010 by the Department of Human Services. There is a note on one that says "2OFC 72309" sent to the office of child support July 23, 2009."

The child support division indicated that had it had this information it would be indicative of cooperation.

In this case, the evidence does not show that claimant was not in cooperation; the evidence shows that child support has not been cooperating.

After careful review of the substantial and credible evidence on the whole record, this Administrative Law Judge finds that claimant has cooperated with the office of child support. The department is ordered to remove the sanction.

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's actions are REVERSED.

The department is Ordered to remove the child support sanction from claimant's case.

The department is Ordered to reinstate the October 11, 2010 cash assistance DHS-1171 application and reprocess the application in accordance with usual policy and procedure, without a child support sanction. The department shall issue a decision notice to claimant informing her of the outcome of the decision. Claimant shall retain a right to a hearing for 90 days from the date of the notice. If claimant is approved, the department shall issue supplemental benefits to claimant and keep her case continuing until the next scheduled review. If claimant is not eligible, the notice shall specifically explain the reason for denial. It is so ORDERED.

/s/

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

Date Signed: April 14, 2011

Date Mailed: April 14, 2011

201119811/jgs

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.

JGS/db

cc:

