

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

IN THE MATTER OF:



Reg. No: 201126268
Issue No: 1005, 3003
Case No: [REDACTED]
Hearing Date:
June 1, 2011
Wayne County DHS-55

ADMINISTRATIVE LAW JUDGE: Aaron McClintic

DECISION AND ORDER

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, an in-person hearing was held on June 1, 2010. The Claimant appeared and testified. [REDACTED], ES appeared on behalf of the Department.

ISSUE

Is the Department correct in closing Claimant's FIP benefits for failure to cooperate with the Office of Child Support and did the Department correctly determine Claimant's Food Assistance Program benefits?

FINDINGS OF FACT

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

- (1) Claimant was an ongoing recipient of FIP and FAP.
- (2) A noncooperation notice was sent to the Claimant alleging that she failed to respond to letters from the Office of Child Support.
- (3) Claimant credibly testified that she did not receive any request for information from the Office of Child Support prior to the noncooperation notice.

- (4) No Office of Child Support worker testified at hearing.
- (5) Claimant's FIP benefits were closed on [REDACTED] for failure to cooperate with the Office of Child Support.
- (6) Claimant's FAP benefits were \$381 effective [REDACTED]
- (7) Claimant's child receives \$674 income per month from Children's SSI.
- (8) Claimant receives \$467 in FIP benefits monthly.
- (9) Claimant has rental obligation of \$650 and is responsible for all utilities.
- (10) Claimant requested a hearing on [REDACTED] contesting the closure of FIP benefits and reduction of FAP benefits.

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 Dependant 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).

Regulations governing the Office of Child Support (OCS) can be found in the IV-D Manual (4DM).

Clients 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. Failure to cooperate without good cause results in disqualification. Disqualification includes member removal, denial of program benefits, and/or case closure, depending on the program. PEM 255.

Non-cooperation exists when a client, without good cause, willfully and repeatedly fails or refuses to provide information and/or take an action resulting in delays or prevention of support action. 4DM 115.

Before finding a client non-cooperative, the Support Specialist must establish and document that the client failed and/or refused to provide known or obtainable information and/or to take an action without an acceptable reason or excuse. 4DM 115. The goal of the cooperation requirement is to obtain support. Support

specialists should find non-cooperation only as a last resort. There is no minimum information requirement. 4DM 115.

Several factors may affect a client's ability to remember or obtain information. In evaluating cooperation, the Support Specialist should consider such factors as client's marital status, duration of relationship and length of time since last contact with the non-custodial parent. A client who was married to the non-custodial parent or knew the putative father for several months can reasonably be expected to provide identifying and location information. The extent and age of location information obtainable may be affected by how long it has been since the parties last lived together or had personal contact. 4DM 115.

In the present case, Claimant credibly testified that she did not receive a request for information from the Office of Child Support prior to the noncooperation notice. The Department has not met its burden to show Claimant was noncooperative. The Department has not established that Claimant failed and/or refused to provide known or obtainable information. Claimant has not willfully and repeatedly failed or refused to provide information. This Administrative Law Judge finds that Claimant was cooperative and therefore closure of Claimant's FIP benefits for noncooperation was not warranted and improper.

The Food Assistance Program, formerly known as the Food Stamp ("FS") program, is established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations ("CFR"). The Department of Human Services ("DHS"), formally known as the Family Independence Agency, administers the FAP program pursuant to MCL 400.10, *et seq* and MAC R 400.3001-3015. Departmental policies are found in the Bridges Administrative Manual ("BAM"), the Bridges Eligibility Manual ("BEM"), and the Program Reference Manual ("PRM").

The federal regulations define household income to include all earned income. 7 CFR 273.9(b). All monthly income must be converted to a nonfluctuating monthly amount. Only 80% of earned income is counted in determining FAP benefits. BEM 550. Under 7 CFR 273.9, as amended, \$152.00 is deducted from the gross income of FAP recipients in determining FAP grants.

In the present case, according to the aforementioned policy on budgeting, Claimant has \$467 from children's SSI and \$467 in FIP benefits for a total unearned income of \$1141. Subtracting \$152 from \$1141 results with \$989 adjusted gross income. Claimant qualified for the maximum an excess shelter deduction of \$458 as her shelter expenses \$1238 was in excess of \$494 (50 percent of \$989, income after prior deductions were made.) by more than \$458. Subtracting \$458 from \$989 results with \$531 net income. A household of 4 with a net monthly income of \$531 is entitled to a monthly FAP benefit of \$508 per month. RFT 260. Therefore the Department's determination of benefits of \$381 is incorrect.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law decides that the Department was not correct in the closure of Claimant's FIP benefits, and it is ORDERED that the Department's decision is hereby REVERSED, FIP benefits shall be reinstated as of the date of closure and a supplement shall be paid for any missed benefits. This Administrative Law Judge further finds that Department was incorrect in the determination of FAP benefits. Claimant shall be paid \$508 per month FAP benefits effective [REDACTED] [REDACTED]. Any increase in benefits shall be paid to Claimant in the form of a supplement.



Aaron McClintic
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: June 3, 2011

Date Mailed: June 3, 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.

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