

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

IN THE MATTER OF:

DHS Req. No: 2008-29323
SOAHR Docket No. 2008-30519 REHD
Case No: [REDACTED]
Load No: [REDACTED]

[REDACTED]
Claimant

RECONSIDERATION DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 24.287(1) and 1993 AACS R 400.919 upon the request of the Department.

ISSUE

Did the Administrative Law Judge properly determine that the Department erred in denying Claimant's application for FIP benefits?

FINDINGS OF FACTS

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

1. On August 6, 2008 ALJ Michael Bennane issued a Hearing Decision in which the ALJ reversed the Department of Human Services' (DHS) denial of the Claimant's application of March 24, 2008 for FIP benefits.
2. On August 27, 2008, the State Office of Administrative Hearings and Rules (SOAHR) for the Department of Human Services received a Request for Rehearing/Reconsideration submitted by DHS.
3. On October 2, 2008, SOAHR granted the DHS Request for Rehearing/Reconsideration and issued an Order for Reconsideration.
4. Findings of Fact 1-4 from the Hearing Decision, mailed on August 19, 2008 are hereby incorporated by reference.
5. Claimant failed to complete a Family Automated Screening Tool (FAST).

6. The department denied claimant's application for FIP due to claimant's failure to complete a FAST and failure to provide verification regarding a JET deferral.

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

DHS requires clients to participate in employment and self-sufficiency-related activities and to accept employment when offered. The DHS focus is to assist clients in removing barriers so they can participate in activities which lead to self-sufficiency. However, there are consequences for a client who refuses to participate, without good cause.

The goal of the FIP penalty policy is to obtain client compliance with appropriate work and/or self-sufficiency related assignments and to ensure that barriers to such compliance have been identified and removed. The goal is to bring the client into compliance.

As a condition of eligibility, all Work Eligible Individuals (WEIs) and non-WEIs must work or engage in employment and/or self-sufficiency-related activities. **Noncompliance** of applicants, recipients, or member adds means doing **any** of the following **without** good cause:

Failing or refusing to:

Appear and participate with the Jobs, Education and Training (JET) Program or other employment service provider.

Complete a Family Automated Screening Tool (FAST), as assigned as the first step in the FSSP process.

FIS should clear the FAST Fall Out Report and any FAST confirmation information the client has obtained before considering a client noncompliant for FAST noncompletion.

Develop a Family Self-Sufficiency Plan (FSSP) or a Personal Responsibility Plan and Family Contract (PRPFC).

FIS must have scheduled a FSSP completion appointment with the client and the client failed to attend before considering a client noncompliant for FSSP noncompletion.

Comply with activities assigned on the Family Self Sufficiency Plan (FSSP).

Provide legitimate documentation of work participation.

Appear for a scheduled appointment or meeting related to assigned activities.

Participate in employment and/or self-sufficiency-related activities.

Accept a job referral.

Accept a job referral.

Complete a job application.

Appear for a job interview (see the exception below).

Stating orally or in writing a definite intent not to comply with program requirements.

Threatening, physically abusing or otherwise behaving disruptively toward anyone conducting or participating in an employment and/ or self-sufficiency-related activity.

Refusing employment support services if the refusal prevents participation in an employment and/or self-sufficiency-related activity. PEM 233A

In the present case the ALJ correctly found that the department was in error in denying claimant's application for FIP. The Department denied claimant's application because he failed to complete a Family Automated Screening Tool (FAST). However it appears that Claimant was given conflicting information regarding this requirement. Whereas Claimant may have been informed initially that the FAST was required, he subsequently received information with indicated that is was not required. Claimant received a Notice to Client Referred to JET from the department. The notice indicated that claimant was to complete a FAST. Under the section entitled PENALTIES IF YOU DO NOT COMPLY, it states the following:

If you or anyone else on the list do NOT complete a FAST within 30 days or participate in the development of the FSSP within 90 days of this notice,

- o DHS will deny or stop your cash assistance.
- o If you received Food Assistance DHS may reduce or stop it. These penalties will not apply if you have good cause....

Claimant testified that since the boxes were not checked he understood that the completion of the FAST was not mandatory. This ALJ finds that the notice was compromised by the presence of the unchecked boxes. Therefore, he did not have adequate notice that he was required to complete the FAST. It should be noted that the Department, subsequent to this hearing, changed the FAST notice and it no longer includes checkboxes.

The Department also denied Claimant's application on the basis that Claimant failed to provide medical documentation supporting his request for a JET deferral. Pursuant to policy, failure to provide documentation for JET deferral results in a denial of the deferral request. Clients are not required to request JET deferrals and therefore failure to provide verification regarding deferral is not considered noncompliance. The Department was therefore in error in denying Claimant's application on the basis that Claimant failed to provide verification. PEM 230A ,233A.

DECISION AND ORDER

This Administrative Law Judge, based on the above findings of fact and conclusion of law, decides that the Administrative Law Judge was correct in finding that the Department erred in denying Claimant's application.

IT IS THEREFORE ORDERED:

That the Administrative Law Judge's decision mailed August 19, 2008 on the issue of the Department's denial of Claimant's application is UPHeld.

That the Department reinstate Claimant's application for FIP dated March 24, 2008 and process the application. The Department shall inform the Claimant of the determination in writing.

/s/
Rhonda Craig
Administrative Law Judge
for Michigan Department of Human Services

[REDACTED]
DHS Req. No: 2008-29323
SOAHR Docket No. 2008-30519 REHD
Reconsideration Decision

cc:

[REDACTED]

Date Signed: 6/24/2009
Date Mailed: 6/25/09

***** NOTICE *****

The Appellant may appeal this Rehearing Decision to Circuit Court within 30 days of the mailing of this Rehearing Decision.