

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF: [REDACTED]

Claimant

Reg. No: 2009-11779

Issue No: 1038

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

February 26, 2009

Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Ivona Rairigh

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, a telephone hearing was held on February 26, 2009. Claimant personally appeared and testified.

ISSUE

Did the department correctly deny claimant's Family Independence Program (FIP) application in December, 2008?

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 applied for FIP on November 20, 2008, and was given two dates to report for Work First/Jobs, Education and Training (WF/JET) orientation, one for November 24, 2008 and second for December 1, 2008 (Department's Hearing Summary).

2. Department also generated a Family Automated Screening Tool (FAST) notice to the claimant on November 20, 2008.

3. On December 26, 2008, department denied claimant's FIP application due to her alleged failure to attend WF/JET as assigned. Claimant requested a hearing on January 6, 2009.

4. Claimant testified at the hearing that she did attend WF/JET on December 1, 2008, and was told because she was moving nothing could be done for her at that WF/JET site. Claimant also testified that she did complete FSSP questionnaire.

5. Hearing record was left open for additional verification from WF/JET in response to claimant's testimony.

6. On March 6, 2009, department provided a copy of an e-mail from [REDACTED], Case Manager, WF/JET. This e-mail was sent to claimant's caseworker on December 2, 2008, at 7:39 AM, and it states that "[REDACTED] is moving today to [REDACTED] [REDACTED] we are unable to service her. If you have any questions or concerns please give me a call".

7. In addition, copy of this e-mail has a hand-written note stating "not enrolled due to moving to Wash. not completing this due at intake".

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).

Departmental policy states:

Timing of JET Referral

Mandatory JET clients must be sent to JET upon application for FIP. Do not send any others to JET at application, unless a deferred client volunteers to participate. All JET referrals must be sent through ASSIST. ASSIST will generate an automated DHS-2439, Michigan Works Referral to the Michigan Works! Agency's (MWA's) Management Information System (MIS) upon completion of the initial interview in ASSIST. Clients can reapply for FIP at any time after their application is denied for failing to appear or participate with JET. PEM, Item 229.

That the claimant was a mandatory JET client is not in dispute. Claimant however, does dispute department's claim that she did not attend WF/JET on December 1, 2008, as she was required to do. Claimant testified that she went to WF/JET site on this date and was told because she was moving nothing more could be done for her there. The copy of the e-mail provided by the department from WF/JET Case Manager was sent to the claimant's caseworker on December 2, 2008, at 7:39 AM. It is highly unlikely that this Case Manager saw the client prior to 7:39 AM, on December 2, 2008, as this Administrative Law Judge has not held any WF/JET hearings in which a WF/JET site is opened 24 hours per day or during night time hours, but only from 8 AM to 5 PM. Claimant's testimony that she did attend WF/JET on December 1, 2008, and gave information about her move to WF/JET Case Manager on that date is therefore found to be credible.

The department in this case, Wayne County DHS, did not deny claimant's FIP application until December 26, 2008, because she allegedly failed to attend WF/JET on December 1, 2008. It is clear from the WF/JET Case Manager's e-mail that Wayne Co. DHS worker knew as of December 2, 2008, that the claimant had moved to [REDACTED] in

[REDACTED] Hand-written note on the copy of December 2, 2008, e-mail states that the claimant has moved to [REDACTED]. Why Wayne Co. DHS would keep

claimant's application for another 24 days and then deny it instead of transferring it to [REDACTED]. DHS is not known. Departmental policy gives very clear instructions to caseworkers what actions must be taken when a group with a pending application moves to another county or district. This policy states that the caseworker is **not** to deny a pending application **solely** because the group moved to another county or district, but to transfer the application and documentary evidence to the new local office so that the original standard of promptness can be used. PAM, Item 305, page 11. There are additional considerations pertaining to a transfer when a client had already requested a hearing which may delay such a transfer. This was not the case in claimant's situation as her move to [REDACTED] was known to [REDACTED] on December 2, 2008, and she did not request a hearing until January 6, 2009.

Department also cited as additional reason for conclusion that the claimant did not comply with WF/JET requirements her alleged failure to complete FSSP questionnaire that is completed on the computer system. Claimant testified that she had completed. Department did provide a computer screen that shows no completion FSSP date, however it is unknown when this screen was printed as it does not have a date on it. This Administrative Law Judge has concluded that the claimant attended WF/JET on December 1, 2008, as explained above. It is clear from WF/JET Case Manager's e-mail that they could not serve the claimant due to her move to Washtenaw Co. Even if the claimant did not complete the FSSP questionnaire, one has to have access to a computer to complete it. Possibility exists that the claimant did not have access to a computer and that she was planning on using a computer at WF/JET site. However, claimant did not have a chance to do so because she was denied services at WF/JET site due to her move to Washtenaw Co.

In conclusion, evidence presented supports claimant's hearing testimony that she indeed attended WF/JET site on December 1, 2008, and her FIP application should not have been denied for that reason, but transferred to her new county of residence, [REDACTED]. In addition, it is unknown if the claimant had an opportunity to complete the required FSSP questionnaire because she was not given access to WF/JET site due to her move to [REDACTED].

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department incorrectly denied claimant's FIP application in December, 2008.

Accordingly, department's action is REVERSED. Department shall:

1. Re-process claimant's November 20, 2008, FIP application.
2. Give the claimant the opportunity, through a DHS-3503, Verification Checklist, to provide any additional information needed to complete FIP eligibility determination.
3. Notify the claimant in writing of such determination.

SO ORDERED.

/s/ _____
Ivona Rairigh
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: March 13, 2009

Date Mailed: March 13, 2009

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.

IR [REDACTED]

cc: [REDACTED]