

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: 2009-12163

Issue No: 1021

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

February 26, 2009

Livingston County DHS

ADMINISTRATIVE LAW JUDGE: Tyra L. Wright

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 hearing was held on February 26, 2009. Claimant personally appeared and her husband personally appeared and testified. A community resource coordinator and a family independence manager represented the Department.

ISSUE

Did the Department act properly in sanctioning Claimant by closing her Family Independence Program (FIP) case on the grounds that her husband, a member of the FIP group, failed to attend the Jobs, Education and Training (JET) program without good cause?

FINDINGS OF FACT

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

Claimant began receiving FIP benefits for a group size of three in [REDACTED]. She received [REDACTED] in monthly FIP benefits. Her group size included her husband.

(1) Claimant's husband was required to attend the JET program.

(2) At some time, Claimant's husband told a JET worker in [REDACTED] about his pending hernia surgery and resulting work restrictions.

(3) On November 13, 2008, the [REDACTED] JET director sent Claimant a letter stating that he was being referred to triage at the Department.

(4) As a result, Claimant did not attend JET and waited for notice of his triage appointment.

(5) On November 18, 2008, the Department received a call from Claimant's husband. He stated that he had received a JET noncompliance letter. The husband also stated that his doctor had restricted him to not lift anything heavier than 10 pounds until after his hernia surgery. (Exhibit 2). (Claimant's hernia surgery was performed on [REDACTED].)

(6) On November 19, 2008, the Department sent claimant a Notice of Noncompliance stating that he was terminated from JET on November 10, 2008. Moreover, the Notice stated that a triage appointment had been scheduled for November 26, 2008 at [REDACTED] at [REDACTED] [REDACTED]. (Exhibit 3).

(7) Claimant's husband did not attend the triage on November 26, 2008.

(8) The husband contends that he did not receive notice of the triage appointment.

(9) The Department did not have any contact with Claimant's husband from November 19, 2008 through December 2, 2008.

(10) On December 6, 2008, the husband contends that he received a Notice of Case Action from the Department's [REDACTED] office stating that his FIP case would close effective December 2, 2008.

(11) In response to receiving notice that his FIP case closed on December 2, 2008, the husband asserted that on December 8, 2008, he went to the Department office to request a hearing. Claimant, however, on December 8, 2008 filled out a hearing request related to his FAP case. The front of the hearing requested referred to the FAP case only. (Exhibit 7). The husband contends that he thought he was requesting a hearing related to this FIP case.

(12) The Department received a hearing request for the FIP case on January 21, 2009.

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 for FIP are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM), and the Program Reference Manual (PRM).

DEPARTMENT POLICY

FIP, RAP Cash

Federal and State laws require each work eligible individual (WEI) in the FIP and RAP group to participate in the Jobs, Education and Training (JET) Program or other employment-related activities unless temporarily deferred or engaged in activities that meet participation requirements. These clients must participate in employment and/or self-sufficiency related activities to increase their employability and obtain stable employment. (PEM 230A, pg. 1)

NONCOMPLIANCE PENALTIES FOR

ACTIVE FIP CASES AND MEMBER ADDS

The penalty for noncompliance without good cause is FIP closure. Effective April 1, 2007, the following minimum penalties apply:

- For the first occurrence on the FIP case, close the FIP for not less than three calendar months unless the client is excused from the noncompliance as noted in [First Case Noncompliance Without Loss of Benefits](#) below.
- For the second occurrence on the FIP case, close the FIP for not less than three calendar months.
- For the third and subsequent occurrence on the FIP case, close the FIP for not less than 12 calendar months. (PEM 233A, p. 6).

TRIAGE

JET participants will not be terminated from a JET program without first scheduling a triage meeting with the client to jointly discuss noncompliance and good cause. Locally coordinate a process to notify the MWA case manager of triage meetings including scheduling guidelines.

Clients can either attend a meeting or participate in a conference call if attendance at the triage meeting is not possible. If a client calls to reschedule an already scheduled triage meeting, offer a phone conference at that time. Clients must comply with triage requirements within the negative action period.

When a phone triage is conducted for a first noncompliance and the client agrees to comply, complete the DHS-754, First Noncompliance Letter, as you would complete in a triage meeting. Note in the client signature box Client Agreed by Phone. Immediately send a copy of the DHS-754 to the client and phone the JET case manager if the compliance activity is to attend JET.

Determine good cause based on the best information available during the triage and prior to the negative action date. Good cause may be verified by information already on file with DHS or MWA. Good cause must be considered even if the client does not attend, with particular attention to possible disabilities (including disabilities that have not been diagnosed or identified by the client) and unmet needs for accommodation.

If the FIS, JET case manager, or MRS counselor do not agree as to whether good cause exists for a noncompliance, the case must be forwarded to the immediate supervisors of each party involved to reach an agreement.

DHS must be involved with all triage appointment/phone calls due to program requirements, documentation and tracking.

Note: Clients not participating with JET must be scheduled for a triage meeting between the FIS and the client. This does not include applicants. (PEM 233A, pg.8-9).

In this case, Claimant did not receive the Notice of Noncompliance that would have told him that a triage was scheduled on November 26, 2008. Because Claimant was not aware that a triage had been scheduled, he did not attend the triage. Under these circumstances, Claimant was not given an opportunity to establish good cause for his failure to attend JET.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department improperly closed Claimant's FIP case as a sanction for her husband's noncompliance with JET requirements.

Accordingly, the Department's action is REVERSED. The Department is ORDERED to reopen Claimant's case and reschedule a triage meeting to determine whether Claimant's husband can establish good cause for failing to attend JET. In addition, the Department is ordered to reimburse Claimant for any benefits she would have received during the time that the FIP case was improperly closed.

/s/ _____
Tyra L. Wright
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: March 9, 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.

TLW/dj

cc:

