

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: 2009-13339  
Issue No: 1038; 3029  
Case No: [REDACTED]  
Load No: [REDACTED]  
Hearing Date:  
March 19, 2009  
Hillsdale 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 . Claimant personally appeared and testified.

ISSUE

Did the department correctly terminate claimant's Family Independence Program (FIP) benefits on January 24, 2009, and also correctly take action to reduce her Food Assistance Program (FAP) benefits effective February 3, 2009?

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 a FIP and FAP recipient when the department mailed her a Work First/Jobs, Education and Training Appointment Notice, a DHS-4785, on September 29, 2008,

telling her she must attend Michigan Works on October 6 and 13, 2008 (Department's Exhibit #2).

2. [REDACTED] department received a Medical Examination Report and a Medical Needs form stating that the claimant had physical limitations (Department's Exhibits #3, 3A and 4).

3. On October 23, 2008, claimant's caseworker completed a Good Cause Determination form granting her good cause for not attending Michigan Works on October 6 and 13, 2008, due to medical issues (Department's Exhibit #5).

4. On November 21, 2008, department mailed the claimant another DHS-4785 scheduling a Michigan Works appointment for December 1, 2008 (Department's Exhibit #7).

5. On December 1, 2008, department received another Medical Needs form stating that the claimant was unable to work for 30 days from the date she was last seen by her doctor, November 6, 2008 (Department's Exhibit #6).

6. On December 8, 2008, claimant's caseworker re-sent her the DHS-4785 scheduling a Michigan Works appointment for December 15, 2008, as her medical deferral ended on December 6, 2008 (Department's Exhibit #7).

7. On December 16, 2008, claimant was mailed a Notice of Noncompliance due to being a no show at Michigan Works on December 1 and 15, 2008. A triage appointment was scheduled for December 22, 2008 (Department's Exhibit #8).

8. Claimant did not attend the triage and her FIP case was pended for closure and closed on January 24, 2009, due to noncompliance with work requirements.

9. Claimant's FAP benefits were also pended for reduction on January 20, 2009, with an effective date of February 3, 2009. Claimant requested a hearing on January 30, 2009, and FAP negative action was deleted pending the outcome of this hearing.

### 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 Food Assistance Program (FAP) (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 or department) administers the FAP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3001-3015. Department policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

Departmental policy states:

### **DEPARTMENT PHILOSOPHY**

#### **FIP**

DHS requires clients to participate in employment and self-sufficiency-related activities and to accept employment when offered. Our 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.

Noncompliance may be an indicator of possible disabilities. Consider further exploration of any barriers.

## **DEPARTMENT POLICY**

### **FIP**

A Work Eligible Individual (WEI), see PEM 228, who fails, without good cause, to participate in employment or self-sufficiency-related activities, must be penalized.

See PEM 233B for the Food Assistance Program (FAP) policy when the FIP penalty is closure. For the Refugee Assistance Program (RAP) penalty policy, see PEM 233C. PEM 233A, p. 1.

### **NONCOMPLIANCE WITH EMPLOYMENT AND/OR SELF-SUFFICIENCY-RELATED ACTIVITIES**

As a condition of eligibility, all 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.
  - .. Develop a Family Self-Sufficiency Plan (FSSP) or a Personal Responsibility Plan and Family Contract (PRPFC).

- .. Comply with activities assigned to on the Family Self-Sufficiency Plan (FSSP) or PRPFC.
- .. Appear for a scheduled appointment or meeting.
- .. Participate in employment and/or self-sufficiency-related activities.
- .. 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, pp. 1-2.

### **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 requirement 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.

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, p. 7.

In claimant’s case department did schedule her for Michigan Works appointments starting in September, 2008. Claimant did provide medical information that resulted in department granting her temporary deferrals from Michigan Works participation, in accordance with departmental policy on deferrals for short-term incapacity. PEM, Item 230A, pp. 12-13. Once claimant’s medical deferral expired, department correctly scheduled the claimant for another Michigan Works appointment in December, 2008, as no further medical information to justify another deferral was provided by the claimant.

Claimant’s hearing testimony is that she did not receive the triage letter (see Finding of Fact #7) until the date of the triage, December 22, 2008, at 4 P.M., due to moving to another address. Claimant further testified that she called her caseworker to tell her she had missed the triage appointment due to delay in receiving her mail, but did not receive a call back from her.

Department’s representative at the hearing, a manager, testified that according to the note in claimant’s case she did call her caseworker on the morning of December 23, 2008, and left a message with a telephone number saying she continues to have medical problems. Claimant’s caseworker wrote on the note that she tried to call the claimant back at the number left on the

message, but that the number was disconnected. No other correspondence was mailed to the claimant. Claimant's FIP case did not close until January 24, 2009. Department's representative states that another triage appointment letter should have been sent to the claimant once the caseworker could not reach her at the telephone number she left. This Administrative Law Judge agrees with this assessment, and conclusion that claimant's FIP benefits must be reinstated and her proposed FAP reduction is not to take place must be reached.

Claimant was told she must provide additional medical information if she still feels she is unable to participate in work-related activities. Claimant was also advised that if her medical information shows she is capable of participating in work-related activities with limitations, she should follow department's instructions and either report to Michigan Rehabilitation Services (MRS) for an assessment, or report to Michigan Works if MRS referral is not appropriate. Michigan Works will take claimant's limitations into account when assigning work-related activities to her. Claimant indicated she understood this explanation.

#### DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department incorrectly terminated claimant's FIP benefits in January, 2009, and also incorrectly took action to reduce her FAP benefits.

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

1. Reinstatement claimant's FIP benefits retroactive to January 24, 2009, date of closure.
2. Issue the claimant any FIP benefits she did not receive as a result of January 24, 2009 closure.
3. Not take action to reduce claimant's FAP benefits.

4. Inform the claimant of any further medical information she needs if she is still claiming medical problems that prevent her from participating in work-related activities.

SO ORDERED.

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

Date Signed: March 23, 2009

Date Mailed: March 23, 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.

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