

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: 2009-13705
Issue No: 1038
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
July 30, 2009
Kent 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 July 30, 2009. Claimant personally appeared and testified.

ISSUE

Did the department correctly terminate claimant's Family Independence Program (FIP) benefits in November, 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 was a FIP recipient but claimed that she could not participate in employment-related activities, namely Jobs, Education and Training (JET) program due to her son having medical needs that required her care taking.

2. Claimant was mailed Medical Needs forms (DHS-54) to the address she gave to the department. The forms were never returned completed and one was returned to the department by the postal service as not deliverable.

3. On September 24, 2008, department mailed the claimant a Verification Checklist, DHS-3503, telling her she must attend JET and comply with all rules in order to continue receiving the cash grant. Included with the DHS-3503 was a Work First/JET Appointment Notice scheduling a JET appointment for October 6, 2008.

4. Claimant did not attend JET. On October 22, 2008, claimant's caseworker mailed her a notice stating that her FIP grant will terminate on November 4, 2008. The notice stated that the caseworker had sent medical needs papers to claimant's post office box and they have been returned as "vacant", and that she had also called claimant's brother trying to get in touch with the claimant, but no phone call was returned, and she is unable to get in touch with her.

5. Claimant's FIP benefits did not terminate on November 4, 2008. Instead, on November 18, 2008, department entered a negative action on claimant's FIP case that generated a notice telling her that her FIP grant will be cancelled effective December 2, 2008, due to her failure to participate in employment and/or self-sufficiency-related activities.

6. Claimant requested a hearing on January 13, 2009 using the November 4, 2008, notice.

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).

Department's Hearing Summary and evidence packet provided for the hearing contains information about claimant's subsequent December 23, 2008, FIP application and denial of that application, as well as information about previous FIP termination. This hearing decision addresses FIP termination of December 2, 2008, as this is the notice claimant used to contest department's action.

Departmental policy specifies that if a client claims they are unable to participate in JET they must be offered the opportunity to verify reasons for their inability to participate. Claimant's testimony is that her 17 year-old son was violent to her, and that her 13 year-old son has been labeled a "terrorist" by [REDACTED], that he is a fire starter, and that she therefore had to be home in case the school called her to come get him or if he was suspended from school. Claimant admits to receiving DHS-54 to verify her son's medical condition and the need for her to remain at home to watch him. Departmental policy requires that department obtains such verification and that the DHS-54 or other written statement verifying the medical condition must be completed by and M.D. or D.O. PEM 230A. Claimant states that the psychiatrist that was seeing her 13 year old son once every 8 weeks refused to complete the DHS-54. Claimant further states that her caseworker had an obligation to obtain this medical information because she could not, and she knows this because her mother used to be employed by the department. Claimant's caseworker could not force the psychiatrist to complete the medical form, and did suggest to the claimant she find another doctor to provide this information.

Claimant clearly did not provide requested DHS-54 and did not show for the JET appointment. However, departmental policy does specify that the department must schedule a

triage appointment to give a client the opportunity to present any good cause reasons for JET noncompliance prior to terminating FIP benefits. PEM 233A. Neither the hearing testimony or evidence provided by the department for the hearing show that the triage was scheduled prior to FIP benefit termination. Department therefore erroneously terminated claimant's FIP benefits.

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 November, 2008.

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

1. Reinstatement claimant's FIP benefits retroactive to December 2, 2008 closure.
2. Issue the claimant any FIP benefits she did not receive as a result of this closure.
3. Schedule a triage appointment to offer the claimant the opportunity to provide any good cause reasons for her JET noncompliance.
4. Take any appropriate action on claimant's FIP benefits once good cause determination has been completed (i.e. continue or take action to terminate such benefits).

SO ORDERED.

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

Date Signed: August 3, 2009

Date Mailed: August 3, 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]