

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: 2009-14537

Issue No: 1038

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

April 7, 2009

Jackson 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 April 7, 2009. Claimant personally appeared and testified along with her father

[REDACTED]

ISSUE

Did the department correctly take action to terminate claimant's Family Independence Program (FIP) benefits in February, 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 recipient and a mandatory Work First/Jobs, Education and Training (WF/JET) participant when she was determined not to have completed the required hours of job search.

2. This determination was based on claimant only providing 12 hours in job search documentation on January 12, 2009, only 11 hours on January, 26, 2009, and only 9 hours on February 2, 2009 (Department's Exhibit #5).

3. On February 4, 2009, department mailed the claimant a Notice of Noncompliance scheduling a triage meeting for February 10, 2009, to discuss her reasons for not meeting minimum job search requirements (Department's Exhibit #3).

4. WF/JET staff's case note of February 10, 2009, indicates that the claimant had not provided a job search log with minimum requirements (20 hours) as of that date, even though she has been given plenty of opportunity to comply.

5. Claimant attended the triage meeting and was not able to provide any documentation to establish good cause. Claimant stated "I am tired of coming in here" and asked for forms to request a hearing so her assistance could continue. Claimant then also stated that she was caring for her mother who had just had a tracheotomy, and this is why she could not meet her job search requirements. Claimant had not mentioned this to her JET or DHS worker before.

6. Department concluded that the claimant had no good cause for her failure to participate with WF/JET. Action was taken to terminate claimant's FIP benefits effective February 18, 2009. Claimant requested a hearing on February 10, 2009, and department deleted FIP negative action pending the outcome of this hearing.

CONCLUSIONS OF LAWThe 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:

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.

GOOD CAUSE FOR NONCOMPLIANCE

Good cause is a valid reason for noncompliance with employment and/or self-sufficiency-related activities that are based on factors that are beyond the control of the noncompliant person. A claim of good cause must be verified and documented for member adds and recipients. Document the good cause determination on the DHS-

71, Good Cause Determination and the FSSP under the “Participation and Compliance” tab.

See “School Attendance” PEM 201 for good cause when minor parents do not attend school.

Illness or Injury

The client has a debilitating illness or injury, or an immediate family member’s illness or injury requires in-home care by the client.

Claimant testified that her reason for not completing the required 20 hours per week of job search that she had to do as a mandatory WF/JET participant is that she was taking care of her mother who was ill and died on February 24, 2009. Claimant and her father further testified that claimant’s mother had surgery on [REDACTED], that she was in a hospital and then in a nursing home all of [REDACTED] and that she came home for the last two weeks of her life. Claimant’s father also stated that while his wife was at home in February, 2009, nurses came for at least 2-3 hours per day to take care of her, and that hospice also came to the house to assist with care.

Claimant’s noncompliance with JET activities, namely job search for 20 hours per week, took place in January, 2009. Departmental policy quoted above specifically states that good cause for noncompliance with JET due to illness or injury of an immediate family member requires that the client provide in-home care for that family member. Hearing testimony clearly establishes that claimant’s mother was either in the hospital or the nursing home during the month of [REDACTED], and part of [REDACTED]. Furthermore, once claimant’s mother came home in [REDACTED] claimant did not have full responsibility for providing in-home care for her, as visiting nurses provided such care for 2-3 hours per day, and hospice also provided care.

In conclusion, while this Administrative Law Judge certainly has sympathy for the claimant and her father during their difficult times, department’s action in determining that the

claimant did not have good cause for her JET noncompliance was correct and in accordance with departmental policy.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department correctly took action to terminate claimant's FIP benefits in February, 2009.

Accordingly, department's action is AFFIRMED, and it is SO ORDERED.

/s/

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

Date Signed: April 9, 2009

Date Mailed: April 10, 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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