

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: 2009-16848
Issue No: 1038
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
April 28, 2009
Genesee 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 28, 2009. Claimant personally appeared and testified.

ISSUE

Did the department correctly deny claimant's Family Independence Program (FIP) application 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 applied for FIP on January 8, 2009 and signed Work and Self-Sufficiency Rules, DHS-1538, on this date, acknowledging she understood requirements to participate in Jobs, Education and Training Program (JET). (Department's Exhibit C).

(2) DHS-1538 states “If you are a mandatory JET participant, you must attend JET within 20 days of this notice and you must continue to participate. Your specialist will verify your participation before opening your case. Your application for FIP will be denied if you do not continue to participate”.

(3) Update/View Case Notes completed by JET staff show that the claimant had 16.5 hours of JET attendance for the week of 2/2-2/6, and 14 hours for the week of 2/9-2/13. Claimant was required to participate in employment-related activities for 20 hours per week. (Department’s Exhibit A).

(4) On February 23, 2009 department denied claimant’s FIP application stating as reason her non-compliance with the Work First Program which is a requirement of the FIP program. (Department’s Exhibit B).

(5) Claimant requested a hearing on March 5, 2009 stating she did everything she was supposed to do, she went to classes on time and even volunteered at [REDACTED] to meet the 20 hours she needed. Claimant provided with her hearing request a letter from [REDACTED] [REDACTED] dated February 20, 2009 saying that she volunteered on 2/11, 2/12, 2/17 and 2/18/09, and a letter from [REDACTED] dated March 3, 2009 stating she was in classes on 1/21, 1/26, 1/29, 2/3, 2/4, 2/9, 2/10, 2/19, 2/23 and 2/24/09.

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:

DEPARTMENT PHILOSOPHY

FIP, RAP Cash

Clients must be made aware that public assistance is limited to 48 months to meet their family's needs and that they must take personal responsibility to achieve self-sufficiency. This message, along with information on ways to achieve independence, direct support services, non-compliance penalties, and good cause reasons, is initially shared by DHS when the client applies for cash assistance. Jobs, Education and Training (JET) program requirements, education and training opportunities, and assessments will be covered by the JET case manager when a mandatory JET participant is referred at application. PEM 229, p. 1.

Work and Self-Sufficiency Rules

Use the DHS-1538, Work and Self-Sufficiency Rules to explain all of the following to clients at FIP application:

Provide a brief overview of the Work and Self-Sufficiency Rules, once, for each episode of assistance. At a minimum explain direct support services opportunities, work requirements, self-sufficiency requirements, penalties for non-compliance, transportation, child care, earnings or activity reporting and verification requirements, and domestic violence.

The DHS-1538 must be reviewed and signed by all adult applicants and member adds including:

- . Minor parent grantees.
- . Adult member adds.
- . Dependent children age 16 or 17 who are not attending elementary or secondary school full time.
- . Ineligible grantees.

Note: Mail the DHS-1538 to 16 and 17 year old dependent children for completion rather than requiring a signature in person. The grantee is ultimately responsible for the child's compliance. PEM 229, pp. 1-2.

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.

Failure by a client to participate fully in assigned activities while the FIP application is pending will result in denial of FIP benefits, if upon the day of case processing the client is in noncompliance with JET. Use ASSIST denial code 463 and CIMS denial code 210 for clients denied FIP benefits for noncompliance while the application is pending. Retain a copy of the appointment notice in the case record. Do not penalize Food Assistance when a client fails to attend JET as a condition of eligibility when the noncompliant person is not active FIP on the date of the noncompliance. Clients must be active FIP to apply a FIP penalty to the FAP case. PEM 229, p. 2.

Claimant was a mandatory JET program participant and required to perform JET activities for 20 hours per week. According to JET staff notes, claimant did not complete 20 hours of JET activities for the weeks of 2/2-2/6/2009 and 2/9-2/13/2009. Claimant's caseworker therefore followed departmental policy quoted above that directs that a FIP application be denied if a client fails to participate fully in assigned activities while the FIP application is pending.

Claimant testified in the hearing that she did complete her required 20 hours of JET activity because she volunteered at [REDACTED] and also attended classes at [REDACTED], activity known to her JET staff person and apparently already counted in her hours of JET participation. While it may be true that the claimant indeed would

have satisfied her JET activity requirement of 20 hours with her volunteer hours, verification of the same was not provided to the department until March 5, 2009, when the claimant requested a hearing, and after the February 23, 2009 date of FIP denial. Claimant's failure to report additional activities to her JET worker or her DHS worker cannot be the basis for determining that the department acted incorrectly in denying her FIP application.

Claimant was advised that she can re-apply for FIP right away, as there is no sanction period for failure to participate with JET for applicants.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department correctly denied claimant's FIP application 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 29, 2009

Date Mailed: April 30, 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 receipt 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.

2009-16848/ir

IR/db

cc:

