

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: 2009-17167
Issue No: 1038
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
April 29, 2009
Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Steven M. Brown

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 conducted from [REDACTED] on April 29, 2009.

ISSUE

Did the Department correctly terminate claimant's Family Independence Program (FIP) benefits?

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. Claimant's case was transferred from the [REDACTED] office to the [REDACTED] in approximately December 2008.

(2) On February 12, 2009 the Department mailed Claimant a Work First/Jobs, Education and Training (WF/JET) Appointment Notice telling her she must report to a WF/JET site for orientation on February 23, 2009. (Exhibit 1)

(3) Claimant did not appear for the WF/JET orientation. Department mailed Claimant a Notice of Employment and/or Self-Sufficiency Related Noncompliance scheduling a duage for March 16, 2009 to discuss her reasons for WF/JET noncompliance. (Exhibit 3)

(4) Claimant did not appear for the duage and no good cause was found for her WF/JET noncompliance. (Exhibit 4)

(5) The Department terminated Claimant's FIP benefits on March 18, 2009 after sending her a computer notice 12 days prior to this date that her FIP case would close. (Exhibit 5)

(6) Claimant requested a hearing on March 17, 2009 protesting the termination of her FIP benefits. Claimant's FIP benefits were reinstated the week of April 20, 2009.

(7) Claimant testified that she received the orientation notice and contacted the Department and left a message that she did not understand why she should have to participate in the WF/JET program because she was a full-time student at [REDACTED] and she owned her own business and worked 40 hours per week. Claimant testified that she requested a return call. The Department testified that Claimant left a general message that she was not going to attend the orientation and no return call was requested or made.

(8) Claimant testified that she did not go to the orientation because she had class from 11:45 a.m. to 2:30 p.m. and she had to pick up her 6 children from school at 3:15 p.m. and did not have other child care.

(9) Claimant testified that she received the duage notice and contacted the Department and left a similar message to what she left after receiving the orientation notice. She testified that she attempted to attend the duage on March 16, 2009, but could not find the building among several buildings.

(10) Claimant testified that she had given all her employment and income information to the [REDACTED]. The Department testified that it did not have any verification of Claimant's employment and/or income in the file and/or on the computer, but did not call the [REDACTED] in this regard.

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

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. PEM 233A, p.1.

DEPARTMENT POLICY

FIP

All Work Eligible Individual (WEI) and adult non-WEIs (except ineligible grantees, clients deferred for lack of child care (DC) and disqualified aliens, see PEM 228, who fail, without good cause, to participate in employment or self-sufficiency-related activities, must be penalized. Depending on the case situation, penalties included the following:

- Delay in eligibility at application
- Ineligibility (denial or termination of FIP with no minimum penalty period).
- Case closure for a minimum of three or 12 months.

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.

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 3 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 3 calendar months.

- . For the third and subsequent occurrence on the FIP case, close the FIP for not less than 12 calendar months.
- . The penalty counter also begins April 1, 2007 regardless of the previous number of noncompliance penalties. PEM 233A, p.6-7.

It seems entirely possible to the undersigned after listening to the testimony of the Department and the Claimant that all the information from the [REDACTED] did not make it to the [REDACTED]. I certainly understand the ever growing caseload each Department caseworker is required to attend to, but a simple phone call from the Department to Claimant and/or to the sister office would have resolved this issue one way or another long ago. That is not to say that Claimant is not without fault. She knew that the Department had not called her back about whether she needed to attend the orientation, but she elected not to go anyway. I also find it difficult to believe that Claimant, a mother of 6 who has the energy, time and planning ability to also attend college full-time and work full-time, was not resourceful enough to find the location of the duage especially knowing that it was her chance for a face to face meeting to clear up this matter and that her benefits would be cutoff if she did not attend.

With the above said, it is the Departments' burden to show that it acted in accordance with policy in terminating Claimant's FIP benefits and I simply do not find that it did so under the circumstances as they stand in this matter.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department did not establish that it acted in accordance with policy in terminating Claimant's FIP benefits.

Accordingly, the Department's action is REVERSED, and it is SO ORDERED.

The Department is to:

(1) Issue Claimant any supplemental benefits that she may be entitled to from the March 18, 2009 case closing date to the date her case was reinstated by the Department.

(2) If Department did not do so at the conclusion of the April 29, 2009 hearing, it is to contact the [REDACTED] to ascertain whether it has the requisite employment and/or income verification for it to make a determination as to whether Claimant is required to participate in the WF/JET Program going forward. If not, or in the alternative, the Department shall specifically request the information from Claimant so that it can make the same determination.

/s/ _____
Steven M. Brown
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: May 6, 2009

Date Mailed: May 7, 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.

2009-17167/smb

SMB/db

cc:

