

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: 2009-17474

Issue No: 1038

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

May 6, 2009

Calhoun 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 May 6, 2009.

ISSUE

Did the Department correctly take action to 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 and a mandatory Work First/Jobs, Employment and Training (WF/JET) participant.

(2) On December 8, 2008, Claimant attended orientation and signed a Jet/Work First Requirements which explained orientation and job search requirements. (Exhibit 7)

(3) On January 30, 2009, the Department was informed by WF/JET that Claimant was not meeting the required amount of weekly job search hours (20) and was, therefore, in noncompliance with WF/JET requirements. (Exhibit 3)

(4) The Department records indicate that Claimant was credited 20 hours the week of December 7th, 0 hours the week of December 14th, 20 hours the week of December 21st, 16 hours the week of December 28th (2008), 0 hours the week of January 4th, 5 hours the week of January 11th, 0 hours the week of January 18th and 0 hours the week of January 25th (2009). (Exhibits 1, 2)

(5) On February 19, 2009, the Department sent Claimant a Notice of Noncompliance which stated that its “records showed that Claimant had refused or failed to participate as required in employment and/or self sufficiency related activities....” and that “A meeting has been scheduled to give you an opportunity to report and verify your reasons for non-compliance.” The triage meeting was scheduled for February 24, 2009 at 1:40 p.m. (Exhibit 6)

(6) Claimant failed to attend the February 24th triage meeting. The Department found no good cause for Claimant’s noncompliance with WF/JET and took action to terminate Claimant’s FIP benefits effective March 3, 2009.

(7) On March 2, 2009, the Department received Claimant’s hearing request protesting the termination of her FIP benefits.

(8) Claimant testified that she did not attend the triage meeting because she did not receive the Notice of Noncompliance until she got home at 5:30 p.m. on February 24th and read the day’s mail. She testified that she turned in a job search sheet every week and had an agreement with [REDACTED] that she could turn them in late due to her class schedule causing a conflict.

(9) The Department, including [REDACTED], testified that everything that was turned in, regardless of whether it was late, would be in her file and that it did not have anything from Claimant for the weeks she received 0 hours. [REDACTED] specifically testified that she did not recall any agreement with Claimant about turning in her hours late due to her class schedule.

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.

DEPARTMENT POLICY

FIP, RAP Cash

All Family Independence Program (FIP) and Refugee Assistance Program (RAP) eligible adults and 16- and 17-year-olds **not** in high school full-time must be referred to the Jobs, Education and Training (JET) Program or other employment service provider, unless deferred or engaged in activities that meet participation requirements. These clients must participate in employment and/or self-sufficiency-related activities to increase their employability and to find employment. Apply FIP policy to RAP cash clients unless a separate RAP cash policy is mentioned.

JET is a program administered by the Michigan Department of Labor and Economic Growth (DLEG), Michigan Works System. The individual sites where clients report are the Michigan Works! Agency's (MWA's). The JET program serves employers and job seekers to ensure that employers have skilled workers and workers have good jobs that provide economic self-sufficiency.

A cash recipient who refuses, without good cause, to participate in assigned employment and/or self-sufficiency-related activities is subject to penalties. PEM 230A, p. 1.

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.

**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 3 calendar months.
- . For the third and subsequent occurrence on the FIP case, close the FIP for 12 calendar months.
- . The penalty counter also begins April 1, 2007 regardless of the previous number of noncompliance penalties. PEM, Item 233A.

DEPARTMENT POLICY

The policies in this item apply to all FAP applicants and recipients Age 16 and over. Noncompliance, without good cause, with employment requirements for FIP/RAP (see [PEM 233A](#)) may affect FAP if both programs were active on the date of the FIP noncompliance. PEM 233b

When To Disqualify

Disqualify a FAP group member for noncompliance when all the following exist:

- The client was active both FIP and FAP on the date of the FIP noncompliance, and
- The client did not comply with FIP/RAP employment requirements, and
- The client is subject to a penalty on the FIP/RAP program, and
- The client is not deferred from FAP work requirements (see [DEFERRALS](#) in PEM 230B), and
- The client did not have good cause for the noncompliance.

See [MEMBER DISQUALIFICATION](#) later in this item.

Budgeting “Last FIP/EFIP”

Budget the Last FIP grant amount on the FAP budget for the number

of months that corresponds with the FIP penalty (either three months for the first two noncompliances or 12 months for the third and subsequent noncompliances) after the FIP case closes for employment and/or self sufficiency-related noncompliance. The Last FIP grant amount is the grant amount the client received immediately before the FIP case closed.

Budget the Last FIP for three or 12 months whether or not the noncompliant person is disqualified from FAP. If a FIP penalty is imposed; you must budget the Last FIP grant amount. Budget the Last FIP amount only when the client was receiving FAP on the date of the FIP noncompliance. If the client was only applying for FIP and violated a FIP employment and/or self-sufficiency-related requirement, the FAP grant would not be affected.

Note: If a noncompliant person leaves the home, the Last FIP remains budgeted for the duration of the FIP penalty.

Post a follow-up to remove the Last FIP grant from the FAP budget during the last penalty month applied on FIP. PEM 233b

Claimant was given significant information at orientation regarding how her job search hours would be calculated and that failure to turn in job leads sheets on time documenting her job search would constitute non-compliance. Claimant testified that [REDACTED] allowed her to turn in her job search hours late, but [REDACTED] denied the same and neither Claimant or the Department produced any evidence that Claimant turned in any job search hours for the multiple weeks she was credited 0 hours. With the above said, I find that the Department established it acted in accordance with policy in terminating Claimant's FIP benefits.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department acted in accordance with policy in terminating Claimants' FIP benefits.

Accordingly, the Department's FIP eligibility determination is AFFIRMED.

/s/

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

Date Signed: May 13, 2009

Date Mailed: May 14, 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.

SMB/db

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