

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: 2009-17476  
Issue No: 1038  
Case No: [REDACTED]  
Load No: [REDACTED]  
Hearing Date:  
May 5, 2009  
Berrien 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 5, 2009.

ISSUE

Did the Department correctly take action to terminate Claimant's Family Independence Program (FIP) benefits and reduce her Food Assistance Program (FAP) 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 and [REDACTED] were mandatory Work First/Jobs, Employment and Training (WF/JET) participants.

(2) On March 3, 2009, the Department received a triage notice for Claimant from WF/JET due to Claimant's "lack of participation" in the Work Keys test and she was, therefore,

in noncompliance with WF/JET. Specifically, Claimant scored high in a pre-test to the Work Keys test, but then quickly clicked random answers on the Work Keys Test and did not even pass it. (Exhibits 1-6)

(3) On March 3, 2009, the Department received a triage notice for [REDACTED] from WF/JET indicating that he was placed in triage due to Claimant being sent to triage. (Exhibits 7-12 )

(4) On March 12, 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 March 18, 2009. (Exhibit 13)

(5) Claimant attended the March 18, 2009 triage meeting, but the Department held that she did not have good cause for her non-compliance. Claimant told the Department that the test had too much reading and she could not read/write.

(6) [REDACTED] did not attend the March 18, 2009 triage meeting and, therefore, he was determined to be in non-compliance.

(7) [REDACTED] non-compliance became the second non-compliance so Claimant was not eligible for a compliance test. As a result, the Department took action to terminate Claimant’s FIP benefits and reduce her FAP benefits.

(8) Claimant requested a hearing on March 18, 2009 so the Department restored Claimant’s benefits pending the outcome of the hearing.

(9) Claimant testified at hearing that the Work Keys Test was longer than the pre-test and she could not read it or pay attention that long, however, she could not explain why she

could not pay attention for the length of time required for the test which was a couple hours.

Claimant turned the test in after approximately five minutes.

(10) [REDACTED] testified that he did not go to the triage meeting because his mind was on something else including completing his community service hours, but did not further explain why that prevented him for attending the triage meeting.

### 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).

The Food Assistance Program, formerly known as the Food Stamp (“FS”) program, is established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations (“CFR”). The Department of Human Services (“DHS”), formally known as the Family Independence Agency, administers the FAP program pursuant to MCL 400.10, *et seq* and MAC R 400.3001-3015. Departmental 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 scored high on the pre-test and then did not pass the Work Keys test. It would be one thing if she gave it her best effort and did not achieve as high a score on the Work Keys test or a mediocre effort and did not pass it, but this was a situation where Claimant gave no effort at all. Claimant showed up for the triage, but did not establish good cause and she did not do so at the hearing either. While Claimant may have difficulty reading and/or concentrating, she was not held to be non-compliant for these reasons or for a poor test score. It was her clear lack of interest and effort on the test. [REDACTED] failed to show up for the triage and did not offer any real reason at hearing for his failure to do so.

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 and reducing her FAP benefits.

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

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

Date Signed: May 12, 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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