

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: 2009-17562

Issue No: 1038

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

May 6, 2009

Montcalm 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 May 6, 2009. Claimant and her husband personally appeared and testified.

ISSUE

Did the department correctly 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 and her husband were FIP recipients and mandatory Work First/Jobs, Education and Training (WF/JET) participants when they attended joint WF/JET orientation on February 2, 2009 (Department's Exhibit #2).
2. On February 4, 2009, claimant's husband called WF/JET staff to state that he would not be attending job club tomorrow because his wife needed to take his mother in law to

the hospital. WF/JET staff encouraged JET participation suggesting that his wife drop him off at JET and his mother in law off at the hospital.

3. Claimant's husband did not attend job club on February 5, 2009. This absence was not excused by WF/JET staff and a triage meeting was requested.

4. On February 6, 2009, department mailed the claimant a Notice of Noncompliance listing her husband as the non-compliant person due to not attending job club on February 5, 2009, unexcused per JET, failure to complete FAST survey as of January 16, 2009, per DHS-1536 given on December 16, 2008, and failure to complete FAST due January 17, 2008. A triage meeting was scheduled for February 12, 2009, to discuss claimant's reasons for WF/JET noncompliance (Department's Exhibit #5).

5. On February 12, 2009, a telephone triage was conducted. Claimant's husband stated he forgot that he had to complete FAST survey, but then also stated that he did not have a ride to do so. Department's caseworker indicated that Children Protective Service worker arranged transportation for claimant's husband. No good cause was found for failure to complete the FAST survey (Department's Exhibits #4 and 7).

6. Claimant's husband also stated that he did not attend job club on February 5, 2009, because he stayed home to watch his children while his wife took his other in law to the doctor's. Department concluded that since the husband was not excused from WF/JET participation for this reason when he called WF/JET on February 4, 2009, he did not have good cause for his failure to attend the job club.

7. On February 6, 2009, department mailed the claimant a Benefit Notice telling her that due to her husband's failure to participate in the WF/JET program, her FIP benefits will terminate on February 18, 2009 (Department's Exhibits #8 and 9).

8. As no good cause was found during the triage on February 12, 2009, for WF/JET noncompliance, department terminated claimant's FIP benefits on February 18, 2009. Claimant requested a hearing on March 18, 2009.

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.

Departmental policy further directs that all Work Eligible Individuals (WEI) who fail, without good cause, to participate in employment or self-sufficiency-related activities, must be penalized. Noncompliance of applicants, recipients, or member adds includes failing or refusing

to appear and participate with JET Program or other employment service provider and failing to complete a Family Automated Screening Tool (FAST), as assigned. PEM 233A, pp. 1 and 2.

In claimant's case, her husband was notified in December, 2008 that he must complete a FAST survey but failed to do so. Claimant's husband testified that he did not remember why he failed to complete this survey. Claimant testified that her caseworker should have helped her husband complete the FAST survey, even if he did not ask for such help, as she appears to think that it is the caseworker's responsibility to make sure that her husband complies with employment related activities. This Administrative Law Judge disagrees, as claimant and her husband were informed of the need to complete the survey, and it is their responsibility to notify their caseworker if they are having a problem doing so. Without such notification department would have no knowledge that any assistance with the FAST survey was needed, and would be under no obligation to provide such assistance.

Second issue with WF/JET noncompliance of claimant's husband is the fact that he called WF/JET staff on February 4, 2009, to state that he could not come to job club on February 5, 2009, because he had to take care of the couples' four children while the claimant took her mother to a doctor's appointment. Claimant testified that her mother was having bypass surgery in a [REDACTED] on this date. Claimant's husband was not excused from job club attendance by WF/JET staff, a requirement in order for his failure to attend to not be considered WF/JET noncompliance. Furthermore, if the claimant's mother was indeed having "bypass surgery", it would not appear that such surgery would be scheduled with a day's notice. A possibility exists that if the need for the claimant to take her mother for the surgery was discussed with WF/JET staff with several days notice, some other solution to the day care issue could have been reached.

In conclusion, after reviewing the reasons stated for WF/JET noncompliance by claimant's husband, this Administrative Law Judge cannot find an error in department's determination that no good cause for such noncompliance existed.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department correctly terminated 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: May 18, 2009

Date Mailed: May 20, 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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