

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: 2009-19379

Issue No: 1038

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

May 27, 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 hearing. After due notice, a telephone hearing was conducted from [REDACTED] on May 27, 2009.

ISSUE

Whether the Department properly terminated 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 March 24, 2009, the Department was informed by WF/JET that Claimant was not meeting the required amount of job search hours and was, therefore, in noncompliance with WF/JET requirements. (Exhibit 5)

(3) Claimant was required to do 30 hours of job search per week. She was credited 20 hours the week of January 25<sup>th</sup> and 24 hours the week of February 1<sup>st</sup>, but had 0 hours the week of February 8th, 0 hours the week of February 15th, 6 hours the week of February 22<sup>nd</sup>, 5 hours the week of March 1<sup>st</sup> and 8 hours the week of March 8th. (Exhibit 5)

(4) On March 31, 2009, the Department sent Claimant a Notice of Noncompliance which stated in pertinent part - "Records show that you have refused or failed to participate as required in employment and/or self sufficiency related activities for FIP, RAP and FAP as noted below: 4/7/09 Poor Attendance" "A meeting has been scheduled to give you an opportunity to report and verify your reasons for non-compliance. If you want to have a telephone meeting, please call to schedule it before you miss your scheduled appointment.....It is your responsibility to report and verify reasons for your actions. This is your opportunity to claim barriers that make it hard for you to work. If you do not contact me before the appointment date, I will make a good cause decision for you using the information available to me." (Exhibit 1)

(5) The triage meeting was scheduled for April 7, 2009 at 9:45 a.m. Claimant attended and stated that the reason she was not meeting her job search hour requirements was because she received an eviction notice, she was caring for her mother and her water was cut off. The Department found no good cause for Claimant's noncompliance with WF/JET so it terminated her FIP benefits. (Exhibit 2)

(6) On April 7, 2009, the Department received Claimant's hearing request protesting the termination of her FIP benefits.

(7) Claimant testified that she first learned that there was an issue with her rental home in the summer of 2008. She is still living there. She also testified that her mother broke her ankle in February/March of 2009 and she had to help her out. Claimant further testified that her water was turned off for a month in March/April and she had issues with transportation and childcare.

### 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).

Department policy states that 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.

Federal and State laws require each work eligible individual (WEI) in the FIP and FAP group to participate in the Jobs, Education and Training (JET) Program or other

employment-related activities unless temporarily 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 obtain stable employment. JET is a program administered by the Michigan Department of Labor and Economic Growth (DLEG) through the Michigan Works Agencies (MWAs). The JET program serves employers and job seekers for employers to have skilled workers and job seekers to obtain jobs that provide economic self-sufficiency. A WEI who refuses, without good cause, to participate in assigned employment and/or self-sufficiency-related activities is subject to penalties. PEM 230A, p. 1.

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).
  - .. Provide legitimate documentation of work participation.
  - .. Appear for a scheduled appointment or meeting related to assigned activities.
  - .. 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.

The Department is required to send a DHS-2444, Notice of Employment and/or Self-Sufficiency Related Noncompliance within three days after learning of the noncompliance which must include the date of noncompliance, the reason the client was determined to be noncompliant, the penalty that will be imposed and the triage date within the negative action period. PEM 233A, p. 9

Good cause is a valid reason for noncompliance with employment and/or self-sufficiency-related activities that are based on factors that are beyond the control of the noncompliant person. A claim of good cause must be verified and documented for member adds and recipients. If it is determined at triage that the client has good cause, and good cause issues have been resolved, the client should be sent back to JET. PEM 233A, p. 4

Good cause should be determined based on the best information available during the triage and prior to the negative action date. Good cause may be verified by information already on file with DHS or MWA. Good cause must be considered even if the client does not attend, with particular attention to possible disabilities (including disabilities that have not been diagnosed or identified by the client) and unmet needs for accommodation. PEM 233A, p. 9

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 not less than 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, Item 233A.

In the instant case, Claimant told the Department that the reason she was not meeting her job search requirements was because she was being evicted, she was taking care of her mother and her water was shut off. Claimant was never evicted from her home and the water shut did not occur until sometime in March, long after she started having issues with her job search hours. Claimant added a couple of reasons at hearing with transportation and child care, but I do not think these factors and/or assisting her mother constitute good cause based on the testimony offered at hearing by Claimant and, again, I don't think she informed the Department of the child care and transportation issues until hearing. With the above said, I find that the Department established that it acted in accordance with policy in determining that Claimant did not have good cause for not meeting her job search requirements and terminating her 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 Claimant's FIP benefits.

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

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

Date Signed: June 2, 2009

Date Mailed: June 2, 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

cc:

[REDACTED]