

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: 2009-20801
Issue No: 1038
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
June 2, 2009
Muskegon 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 June 2, 2009. Claimant 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 was a FIP recipient when her caseworker mailed her Eligibility Notice to [REDACTED] on November 18, 2008, stating "I removed the shelter cost from your budget as you are no longer staying w/your brother" (Department's Exhibit #160).

2. On December 23, 2008, Work First/Jobs, Education and Training (WF/JET) staff noted that the claimant refuses to participate with WF and is being referred for triage (Department's Exhibit #10).

3. On January 5, 2009, department mailed the claimant a Notice of Noncompliance to the [REDACTED] address scheduling a triage appointment for January 15, 2009 (Department's Exhibit #13).

4. Claimant did not show or call for the triage appointment. Claimant's FIP case was placed into closure effective January 17, 2009, with the closure notice mailed to the [REDACTED] address (Department's Exhibit #15).

5. Claimant's FIP case closed on January 17, 2009. Claimant first submitted a hearing request signed on January 27, 2009, but did not sign it. Claimant eventually signed the hearing request and it was received by the department on April 9, 2009. Claimant stated that she was not aware that her case was put into triage or closed because all of her mail had been sent to her brother's address, she has not seen him in months, and she is homeless.

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).

DHS requires clients to participate in employment and self-sufficiency-related activities and to accept employment when offered. All Work Eligible Individuals (WEI) that are not deferred from participation in Work First/Jobs, Education and Training (WF/JET) program who fail, without good cause, to participate in employment or self-sufficiency-related activities, must be penalized. PEM 233A.

In claimant's case, she apparently failed to attend WF/JET in December, 2008 and was assigned to triage to discuss her reasons for not doing so. One of the possible good cause reasons for being excused from WF/JET participation listed in departmental policy is an "unplanned event or factor". Such an event or factor is defined as an event or factor which likely prevents or significantly interferes with employment and/or self-sufficiency-related activities, and includes homelessness. PEM 233A, pp. 4-5.

WF Case Manager testified that the claimant told her in the middle of December, 2008 that she was homeless. Furthermore, claimant's caseworker was aware as of November 18, 2008, that the claimant was no longer staying with her brother at [REDACTED] (see Finding of Fact #1). Department however, continued to send mail to the claimant at [REDACTED] address, including the notice of triage and notice of FIP case closure. One of the required FIP eligibility factors is that a person is a Michigan resident, and when a client becomes homeless departmental policy directs that their address be changed to a local DHS office address or another location agreeable to the client. PEM 220. In addition, a client could be living with individuals whose income and assets must be considered when determining continuing eligibility for FIP, and establishing where a client is living is therefore required. PEM 210. Claimant continued to have contact with WF/JET for a month following November 18, 2008, when her caseworker mailed her a notice indicating she was aware that she was no longer living at [REDACTED]. Claimant's

caseworker could have therefore easily established where the claimant was living by sharing information with WF/JET staff either through telephone contact or through computer notations. Claimant's address should have also been changed to the local DHS office address if her whereabouts could not be established.

Based on the documentation provided by the department and hearing testimony of WF Case Manager that the claimant told her she was homeless in middle of December, 2008, claimant's assertion that she never received her mail at [REDACTED] and therefore did not know about her triage appointment or FIP case closure is found to be credible. Even if the claimant failed to participate with WF/JET activities without good cause, she would have been offered a First Noncompliance Notice at the triage if she knew about it, and possibly avoided FIP case closure if she complied with activities assigned to her on that Notice. Furthermore, claimant's homelessness should have been considered for a determination of a temporary deferral from WF/JET participation.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department incorrectly terminated claimant's FIP benefits in February, 2009.

Accordingly, department's action is REVERSED. Department shall:

1. Reinstate claimant's FIP benefits retroactively to January, 2009 closure and issue her any FIP benefits she did not receive as a result of this closure.
2. Schedule a triage appointment to discuss claimant's reasons for her WF/JET noncompliance in December, 2008, taking into account claimant's alleged homeless circumstances during this month.

3. If no good cause is found for claimant's WF/JET noncompliance, offer the claimant a First Noncompliance Letter, DHS-754, giving her an opportunity to participate in assigned activities and prevent a FIP sanction.

4. Notify the claimant in writing of department's actions.

SO ORDERED.

/s/
Ivona Rairigh
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: June 15, 2009

Date Mailed: June 16, 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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