

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: 2009-21410

Issue No: 1038

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

June 25, 2009

Washtenaw 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 25, 2009. Claimant personally appeared and testified.

ISSUE

Did the department correctly terminate claimant's Family Independence Program (FIP) benefits in April, 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 and a mandatory Work First/Jobs, Education and Training (WF/JET) participant when WF/JET staff notified the department that the claimant had failed to participate as required and failed to complete JET orientation.

2. On April 16, 2009, department mailed the claimant a Notice of Noncompliance scheduling a triage appointment for April 21, 2009, to discuss her reasons for WF/JET noncompliance (Department's Exhibit #1).

3. Claimant did not appear for the triage, but rescheduled for April 23, 2009, at which time she presented a letter from [REDACTED] non-profit organization that assists survivors of sexual assault and domestic violence dated April 10, 2009 (Department's Exhibit #3).

4. This letter was written by a Personal Protection Order (PPO) Legal Advocate and stated that she has worked with the claimant since February, 2004, at which time she was assessed to be a survivor of domestic violence and thus eligible to receive services from [REDACTED]

5. Letter further stated that the claimant is currently "in the process of completing the necessary paperwork to obtain a Personal Protection Order against her assailant", and that she should be given a deferment from participation in employment-related activities.

6. Department determined that the claimant did not have good cause for WF/JET noncompliance, as the [REDACTED] letter did not mention current threat or danger, or that attending Michigan Works would cause harm or danger (Department's Exhibit #5).

7. Claimant requested a hearing on April 27, 2009, and her FIP benefits terminated on April 28, 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).

Department's policy requires clients to participate in employment and self-sufficiency-related activities and to accept employment when offered. All Work Eligible Individuals who fail, without good cause, to participate in employment or self-sufficiency-related activities, must be penalized. PEM 233A.

When a client fails to participate in WF/JET, a triage meeting is scheduled to give an opportunity for presentation of any reasons that would constitute good cause under departmental policy. Claimant presented domestic violence as the reason why she did not comply with WF/JET. Department's policy states:

Deferral for Domestic Violence

Domestic violence means one or more threats or acts against any family member concerning any of the following:

- . Physical injury.
- . Sexual abuse.
- . Sexual involvement of a dependent child.
- . Mental/emotional abuse.
- . Neglect or deprivation of medical care.

Defer parents and caretakers with a documented claim of threatened or actual domestic violence, against themselves or their dependent children that can reasonably be expected to interfere with work requirements.

Assist the client to develop a plan intended to resolve domestic violence as a barrier to self-sufficiency. The plan may include participation in services for domestic violence victims or receipt of related professional care. Specific activities which might reasonably be expected to endanger the client should be avoided. Document the client's agreement in the FSSP.

Use the client's statement as documentation unless you have sufficient reason to question it. If you question the statement, you may request further documentation, including any of the following:

- . Service from a domestic violence provider.
- . Medical records.
- . Court records (e.g., personal protection order or petition).
- . Police records (e.g., domestic disturbance response).
- . School records (e.g., statement by a school counselor).
- . Statement by a licensed therapist or counselor.
- . Other case record information (including children's services).

If the information is obtained in only verbal form, document it in the case record.

The maximum deferral period is three months. With FIM approval, three-month extensions are permitted. PEM 230A, pp. 17-18.

Claimant presented a letter from [REDACTED] that states this organization has been working with her since February, 2004, and therefore for the last 5 years, due to her being a victim of domestic violence. The letter also indicates that the PPO Legal Advocate and/or the claimant are "in the process" of completing the necessary paperwork to obtain a PPO against "her assailant". This Administrative Law Judge finds it peculiar that an organization that helps victims of domestic violence would not assist the claimant for 5 years to get a PPO against her "assailant". Furthermore, claimant testified that no PPO has been filed as of the date of the hearing, and that she had not heard from her PPO Legal Advocate. This also seems peculiar, as if the claimant is indeed in real and present danger of bodily harm, [REDACTED] is neglecting to assist her with the PPO that could possibly prevent such harm. As it is difficult to believe that any organization whose purpose is to assist victims of sexual assault and domestic violence would ignore the needs of a person truly in danger of such assault and/or violence, logical conclusion is that the claimant's circumstances do not rise to the level required for obtaining the PPO.

Claimant testified that the father of her youngest child, the alleged “assailant”, has been following her around town and calls her on the telephone and threatens to harm her. Furthermore, this person has visitation rights with their child and recently failed to return the child on schedule. Claimant then called the local police who went to the man’s house and had the child returned, but no charges were filed as there was no evidence of any abuse. Claimant was asked specifically if the father of her child had physically harmed her and whether there are any police reports of such harm. Claimant responded that she had not been physically harmed, but that she is afraid because she is followed at times around town and had received threatening telephone calls. Claimant also testified that she felt threatened and therefore could not go to WF/JET, and instead stayed inside of her house. Department’s manager present at the hearing pointed out that the claimant had never mentioned domestic violence in their previous meetings.

Based on evidence presented and hearing testimony, this Administrative Law Judge is unable to conclude that the claimant has shown she had good cause for her noncompliance with WF/JET activities. Claimant testified that threats of domestic violence prevented her from WF/JET participation and departmental policy allows for using the client’s statement as documentation for WF/JET deferral, unless there is a sufficient reason to question it. In claimant’s case there is reason to question her statements as she herself states she has not been physically harmed by the father of her child, that she encounters him while driving around town evidencing she indeed leaves her house without fear for her safety, and she could not explain how WF/JET participation would be interfered with.

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 April, 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: June 26, 2009

Date Mailed: June 29, 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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