

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: 2009-23575
Issue No: 1038
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
June 30, 2009
Kent 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 30, 2009. Claimant personally appeared and testified along with her mother.

ISSUE

Did the department correctly take action to terminate claimant's Family Independence Program (FIP) benefits and sanction her Food Assistance Program (FAP) benefits in May, 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 and FAP recipient and a mandatory Work First/Jobs, Education and Training (WF/JET) participant when the department received notice from WF/JET on April 20, 2009 that she had stopped participating in the program, and requesting a triage appointment. (Department's Exhibit 1).

2. On April 23, 2009, department mailed the claimant a Notice of Noncompliance scheduling a triage meeting for May 5, 2009, to discuss her reasons for WF/JET noncompliance. (Department's Exhibits 3 and 4).

3. Claimant met with WF/JET Case Manager on May 5, 2009, and stated she was sick as the reason she did not participate, but did not have any documentation to back her claim up. No good cause was found. (Department's Exhibit 5).

4. Claimant's FIP benefits were placed into negative action to close. Claimant requested a hearing on May 11, 2009, and her benefits continued pending the outcome of the hearing.

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 (FAP) (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 or department) administers the FAP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3001-3015. 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.

DEPARTMENT POLICY

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.

Claimant states that she had one surgery on [REDACTED] and then second surgery on [REDACTED] that she had complications due to infections, and that she could not get documentation from her doctor to show to the department or WF/JET staff. Claimant further states that she went back to school and was busy and her doctor would not return her calls. Review of WF/JET notes provided for the hearing indicate that the claimant's noncompliance occurred in April, 2009 when she failed to provide VOT (verification of training), which was apparently her school attendance. Furthermore, claimant testified that she does not have any

medical verification for her alleged illnesses as of the date of the hearing, about 3 months after she had her surgeries. Departmental policy requires that an illness or injury preventing WF/JET participation be verified by a medical source. PEM 233A. Claimant had not provided such verification, and even if she did, her medical problems appear to have occurred in February, 2009. Claimant went back to school after February, 2009 and her excuse that she was too busy to provide required information to WF/JET is not a valid excuse for the noncompliance.

Claimant is not deferred from FAP work requirements. Departmental policy further states:

DEPARTMENT PHILOSOPHY

DHS requires clients to participate in employment and/or self-sufficiency-related activities and to accept employment as required. There are consequences for a client who refuses to participate in employment and/or self-sufficiency-related activities or refuses to accept employment without good cause.

DEPARTMENT POLICY

The policies in this item are for all Food Assistance Program (FAP) applicants and recipients. Noncompliance with employment requirements for FIP (see PEM 233A) affect FAP if both programs were active on the date of the noncompliance. PEM 233B, p. 1.

When to Disqualify

- . Disqualify a FAP group member for noncompliance when:
- . The client was active both FIP and FAP on the date of the FIP noncompliance, and
- . The client did not comply with FIP employment requirements, 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. PEM 233B, p. 1.

Claimant's FIP WF/JET noncompliance therefore warrants a FAP disqualification also.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department correctly took action to terminate claimant's FIP benefits and sanction her FAP benefits in May, 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: July 7, 2009

Date Mailed: July 10, 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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