

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: 2009-24980

Issue No: 1038

Case No:

[REDACTED]

Load No:

Hearing Date:

July 14, 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 a hearing. After due notice, a telephone hearing was conducted from [REDACTED] on July 14, 2009.

ISSUE

Whether the Department properly terminated Claimant's Family Independence Program (FIP) benefits?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material and substantial evidence on the whole record, finds as material fact:

(1) Claimant was a recipient of FIP benefits and a mandatory Work First/Jobs, Employment and Training (WF/JET) participant.

(2) On April 16, 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 A)

(3) The Department records indicate that Claimant was required to do 30 hours of job search per week, but only did 13 the week of 2/15/09, 8 the week of 2/22/09 and 0 the weeks of 3/01/09, 3/08/09, 3/15/09, 3/22/09 and 3/29/09. (Exhibit D)

(4) On April 29, 2009, the Department sent Claimant a Notice of Noncompliance setting a triage meeting for May 7, 2009 and 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: 4/16/09 Missed several days of unexcused work participation" "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. You may lose your Family Independence Program (FIP) benefits or your RAP (Refugee Assistance Program) benefits may be reduced and your Food Assistance benefits may be closed or reduced" (Exhibit B)

(5) The Department found no good cause for Claimant's noncompliance with WF/JET so it terminated his FIP benefits effective May 16, 2009. (Exhibits C, F)

(6) On May 27, 2009, the Department received Claimant's hearing request protesting the termination of his FIP benefits.

(7) Claimant testified at hearing that he did not know exactly how many hours he was required to do or that he did during the time period in question, but the number of

required hours was at the discretion of the job coordinator and he was participating as required. Claimant testified that he turned in copies and kept the originals because the Department had lost his job search sheets in the past. He provided the Department with original job search sheets for the weeks of 3/01/09 (40), 3/08/09 (16), 3/15/09 (24) and 3/22/09 (?) on the day of his triage. (Exhibit E)

(8) The Department testified that Claimant was required to turn in the originals, the Department never received the originals or copies of the originals Claimant produced on the day of his triage and he only produced job search sheets for less than ½ of the days he missed.

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, 5

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 was clearly non-compliant. The Department records indicate that his hours were short for two weeks in February and he did not have any hours for the 5 weeks in March. Claimant produced some original job search sheets for March on the day of his triage, but his hours were still short even if it made sense that he

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SMB/db

cc:

