

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: 2009-25673
Issue No: 1038
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
July 16, 2009
Kalamazoo 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 July 16, 2009. Claimant personally appeared and testified.

ISSUE

Did the department correctly take action to terminate claimant's Family Independence Program (FIP) 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 recipient and mandatory Work First/Jobs, Education and Training (WF/JET) participant when the department received information from JET staff on May 5, 2009, that the claimant has been noncompliant with this program by falsifying her job search log, and requesting a triage appointment. (Department's Exhibits 11 and 12).

2. JET staff also provided Actual Hours Status Page showing how many hours of JET participation were credited to the claimant since the week of December 14, 2008 and through May 24, 2009.

3. On May 8, 2009, department mailed the claimant a Notice of Noncompliance scheduling a triage appointment for May 14, 2009 to discuss her reasons for failing to participate in required activity. (Department's Exhibit 9).

4. Claimant showed for the triage appointment claiming she did not falsify job search logs. Claimant was found not to have good cause for failing to meet federal requirements of 20 hours per week of JET participation, even with falsified job search logs.

5. On May 15, 2009, department mailed the claimant a Notice of Case Action telling her that her FIP benefits will terminate as of June 1, 2009. Claimant requested a hearing on May 26, 2009, but the case closed on department's new computer system, Bridges, in error, and claimant's caseworker has been trying to re-open the case since this date.

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. DHS 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. PEM 233A.

Department determined that the claimant had no good cause for failure to participate in JET activities for 20 hours per week. Hearing testimony reveals some other issues with claimant's situation. Claimant was homeless and department was aware of this. Claimant testified that she stays from place to place at the present time with her child and is unable to obtain permanent housing. Claimant stays with her adult daughter in subsidized housing at times, but this fact must be concealed from the landlord because she has a criminal record and therefore cannot reside in such housing. Claimant cannot obtain subsidized housing due to her criminal record, and therefore must look for rentals within her \$492 per month FIP grant. Secondly, JET Update/View Case Notes of April 17, 2009 quote the claimant as saying she is currently in court-ordered treatment for DUI. Claimant testified that such court-ordered treatment was for 12 hours per week and that she has successfully completed it.

Departmental policy defines good cause as 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. One of the good cause reasons is listed as follows:

Unplanned Event or Factor

Credible information indicates an unplanned event or factor which likely prevents or significantly interferes with employment and/or self-sufficiency-related activities. Unplanned events or factors include, but are not limited to the following:

- . Domestic violence.
 - . Health or safety risk.
 - . Religion.
 - . Homelessness.
 - . Jail.
 - . Hospitalization.
- PEM 233A.

Department's representatives testified that claimant's homelessness was not considered previously for a possible temporary deferral from JET participation. Department's policy further states:

Deferral for Local Office Discretion

Use the local office discretion deferral in the following situations:

Temporary Critical Event

Persons experiencing a temporary critical event such as homelessness for up to 3 months.

Department's representatives also testified that the fact that the claimant was in court-ordered treatment for 12 hours per week, issue known to JET staff, was also not considered for possible inclusion of such hours in the 20 hour per week participation requirement for the claimant. Claimant being in substance abuse treatment would certainly be an activity that removes a barrier to employment, and as such could have very well been counted towards her hours of JET participation, especially since the claimant faced jail time if she did not participate in this activity.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department incorrectly took action to terminate claimant's FIP benefits in May, 2009, due to failing to consider her homelessness and court-ordered treatment when addressing her JET participation.

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

1. Continue claimant's FIP benefits without interruption.
2. Review claimant's current living situation for a possible temporary JET deferral for up to 3 months.

3. If the claimant's living situation does not warrant such a deferral, refer the claimant back to JET.

4. Claimant is advised that she must participate in all JET assigned activities unless deferred or unless she has good cause in accordance with departmental policy not to do so.

SO ORDERED.

/s/

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

Date Signed: July 21, 2009

Date Mailed: July 21, 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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