

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: 2009-26202
Issue No: 1038
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
August 11, 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 August 11, 2009. Claimant personally appeared and testified.

ISSUE

Did the department correctly take action in April, 2009 to terminate claimant's Family Independence Program (FIP) benefits?

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 she attended Job Club on November 18, 2008.

2. Update/View Case Notes from JET staff from November 21, 2008 through February 18, 2009 indicate on a weekly basis that the claimant did not submit any job leads for any of the listed weeks, that being a total of 12 weeks.

3. On February 18, 2009, JET staff requested a triage due to claimant's "excessive lack of participation".

4. On April 9, 2009, department mailed the claimant a Notice of Noncompliance scheduling a triage appointment for April 16, 2009 to discuss her reasons for JET noncompliance.

5. Claimant did not show for the triage appointment and department took action to terminate her FIP benefits. Claimant requested a hearing on April 23, 2009 and continued to receive FIP benefits pending the outcome of this 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).

Departmental policy requires all non-deferred clients to participate in employment-related activities, namely the JET program in claimant's case. BEM 230A. If a client fails to participate in activities assigned by the JET program staff, a triage is scheduled to discuss any good cause reasons for JET noncompliance. If no good cause is found, a client is subject to a

sanction/penalty resulting in closure of the FIP case for 3 months for first and second noncompliance, and for a year for third noncompliance. BEM 233A.

Claimant testified that she was employed until middle of December, 2008, when her job ended because she was late for work due to a medical condition. Claimant further testified that she went to a cancer center for treatment once per week from January to June, 2009, that she informed her JET worker of her medical issues, and that she also called her DHS caseworker and informed him of the same sometimes in January, 2009. Claimant did leave a message for her caseworker on April 23, 2009, after the department took action to close her case that she has a medical condition and asking for a form for her doctor to complete. A copy of the Medical Needs form, DHS-54A, is in the hearing packet along with a copy of the message claimant left. Claimant states she did not know by what date she had to return this form, and no Verification Checklist, DHS-3503, with a deadline date for return of the form has been provided for the hearing.

Department's representative at the hearing has not been involved with claimant's case, and as further information was needed from the case record which she did not have in her possession, the hearing was briefly adjourned so the case record could be obtained. Department's representative then advised that claimant's case record has been lost and cannot be located at this time. Therefore, it cannot be determined if the claimant indeed disclosed her possible disability in January, 2009, or if she was indeed given a deadline to provide DHS-54A after it was sent to her on April 23, 2009. Departmental policy states that a client may disclose a disability at any time, and that failure to disclose at an earlier time does not prevent the client from claiming a disability in the future. BEM 230A. Department therefore was required to address claimant's potential disability when she reported it in April, 2009, even if she failed to

report it earlier, failure that cannot be established with certainty as her case record is missing.

Another question that cannot be answered is why JET staff waited two months to ask for a triage after the claimant failed to participate in their activities.

It is also noted that the claimant states she never received the triage appointment notice for some unknown reason, even though it was sent to her correct address.

Departmental representative agrees that claimant's FIP benefits should continue at this time and claimant's ability to participate in JET activities evaluated based on the medical forms she brought to the hearing. Claimant responds that she is now able to participate with JET and will do so.

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 April, 2009, due to failure to address claimant's potential disability that may have prevented her from participating in JET program.

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

1. Continue claimant's FIP benefits without interruption.
2. Refer the claimant to the JET program.
3. Claimant is advised that she must participate in the JET program unless she has a good cause reason not to do so, in which case she must inform her caseworker of such a reason so a possible JET deferral can be addressed.

Claimant may otherwise be subject to penalties.

SO ORDERED.

/s/

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

Date Signed: August 12, 2009

Date Mailed: August 13, 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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