

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: 2009-26407
Issue No: 1038
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
September 2, 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 September 2, 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) program participant when the department received notice on April 15, 2009, from WF/JET staff that he had not participated in JET activities since April 7, 2009. (Department's Exhibit 3).

2. WF/JET staff requested that the department schedule a triage appointment to discuss claimant's reasons for his absences, and specifically stated that the claimant signed a form on April 7, 2009, agreeing to meet program requirements, that he has not attended WF/JET since that date, that he has unexcused absences from April 8 to April 10, April 13 and April 14, 2009, and that he had also not provided any documentation to excuse him from JET participation. (Department's Exhibit 6).

3. On April 17, 2009, department mailed the claimant a Notice of Noncompliance scheduling a triage appointment for April 28, 2009. The Notice advised the claimant that his FIP benefits may close on this date unless he demonstrates good cause for non-compliance. (Department's Exhibits 4 and 5).

4. Claimant was a no call/no show for the triage appointment. Claimant's FIP case closed effective April 29, 2009, for failure to cooperate with JET program requirements. Notice of this closure was mailed to the claimant 12 days prior through the department's computer system. (Department's Exhibit 2).

5. Claimant requested a hearing on May 21, 2009, stating how his brother "choked and stomped" on his already broken foot on [REDACTED], so he could not go to Work First.

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).

That the claimant was a mandatory WF/JET participant as required by department's policy is not in dispute. PEM 230A. Department's policy states:

DEPARTMENT POLICY

FIP

All Work Eligible Individual (WEI) and adult non-WEIs (except ineligible grantees, clients deferred for lack of child care (DC) and disqualified aliens), see PEM 228, who fail, without good cause, to participate in employment or self-sufficiency-related activities, must be penalized. Depending on the case situation, penalties include the following:

- Delay in eligibility at application.
- Ineligibility (denial or termination of FIP with no minimum penalty period).
- Case closure for a minimum of three or 12 months.

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 testified that he was beaten up by his brother on [REDACTED] 09, that he went to the hospital on [REDACTED] to check his foot out but can't explain why he waited 3 days to get treatment for his alleged injuries, and that he called Work First and the department several times to report issues he was having that allegedly prevented him from attending JET. Claimant's caseworker states she has no record of the claimant contacting her at all. This Administrative Law Judge points out to the claimant that his caseworker was actively working on his case, as documentation provided shows, and that if he indeed called reporting his alleged problems, it

seems unlikely she would not document this. Furthermore, if the claimant was indeed injured on [REDACTED] and sought treatment on [REDACTED], it would appear he would not have been able to report to WF/JET on April 7, 2009 (see Statement of Fact #2). Claimant did report on this date, but then did not attend at all for the following 5 working days. Claimant's explanation for his absences is therefore not credible.

Claimant was also asked as to why he did not keep his triage appointment and responds that he never received the triage appointment letter that was sent to his brother's address from which he moved. Claimant's caseworker states that the claimant never reported his change of address, and therefore claimant's non-receipt of his mail cannot be considered departmental error.

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: September 8, 2009

Date Mailed: September 8, 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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