

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: 2009-34127
Issue No: 1038, 3028
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
September 29, 2009
Montcalm 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 29, 2009. Claimant personally appeared and testified.

ISSUE

Did the department correctly take action to terminate claimant's Family Independence Program (FIP) benefits and reduce her Food Assistance Program (FAP) benefits in August, 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 WF/JET staff notified the department that she was in noncompliance with WF/JET activity requirements.

2. WF/JET staff concluded that the claimant was in noncompliance due to submitting only 32 hours of required activity on August 11, 2009, while required to perform 35 hours per week of such activity. Claimant reported doing 9.5 hours of Internet job search, but WF/JET only allowed 5 hours of such job search.

3. On August 12, 2009, department mailed the claimant a Notice of Noncompliance scheduling a triage appointment for August 19, 2009, to discuss her reasons for WF/JET noncompliance.

4. Claimant attended the triage and no good cause for her noncompliance was found. Department took action to terminate claimant's FIP benefits for 12 months due to this being her third instance of WF/JET noncompliance, and to reduce her FAP benefits, effective September 1, 2009.

5. Claimant requested a hearing on August 24, 2009 and department deleted negative action pending the outcome of the hearing.

6. At the hearing claimant stated that she was never told she could not do more than 5 hours of Internet job search. Administrative Law Judge requested that department obtain additional information from WF/JET as to how the claimant was notified of rules for job search.

7. Following the hearing department provided information from WF/JET staff with attached "Guidelines and Information" that all WF/JET participants are given when they come in for orientation on their first day at JET. Claimant came in for such orientation on June 29, 2009, and went over all of the requirements with JET staff member. An individual orientation was held with the claimant on July 2, 2009, which covered required hours.

8. JET staff stated that they make it very clear to the clients that they are allowed a total of 5 hours per week of Internet/newspaper job search that is not verified, and anything over the 5 hours per week would need verification.

9. Enclosed forms from JET that were given to the claimant include a Job Search/Job Readiness Allowable Activities which states “Internet and Help Wanted Classified Ad Job Search – up to 5 hours per week; over 5 hours requires verification of online application”.

10. A form with a section titled Job Search/Job Readiness Activity Requirements, states that “If assigned to the [REDACTED], there will be additional hours, up to a total of 40 hours/week, unless otherwise instructed by your JET Case Manager”. Claimant was assigned to [REDACTED].

11. Last form provided by JET staff is titled Your Role with JET and states that a client must participate in JET activities, one of these being “Up to 5 hours online job search; over 5 hours must be verified”.

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

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.

In claimant's case, it is not in dispute that she was a mandatory WF/JET participant. Claimant testified that she was only required to complete 30 hours per week of WF/JET activities. Update/View Case Notes from JET staff provided for the hearing show that the claimant had submitted 31 hours of job search on July 24, 2009, 5 hours of [REDACTED] and 30 hours job search on July 28, 2009, and 31 hours of job search and 5 hours of [REDACTED] on August 4, 2009. Therefore, claimant's testimony is not credible as there would be no reason for her to exceed 30 hours per week of JET activity if she was indeed required only to do 30 hours. Furthermore, form provided following the hearing from WF/JET staff indicates that if a client is assigned to [REDACTED] Learning Lab, there will be additional hours, up to a total of 40 hours/week, assigned, unless otherwise instructed by JET Case Manager (see Statement of Fact #10). Clients not assigned to [REDACTED] have a total weekly requirement of 20 or 30 hours participation, according to this same form. Claimant was assigned to [REDACTED] and therefore was also assigned additional hours of employment-related activity.

Claimant also testified that she was never made aware that she could not submit more than 5 hours of Internet job search. Documentation provided by JET staff clearly establishes that the claimant was made aware of this requirement through both face to face contacts during orientation on June 29, 2009, and during individual orientation on July 2, 2009. Claimant was also given forms that describe Internet/newspaper job search and rules governing this search (see Statements of Fact #9 and 11).

It should also be noted that this is claimant's third proposed FIP sanction due to noncompliance with WF/JET activities. Claimant is therefore not new to the JET program and should be very familiar with what she must do in order to retain her FIP and FAP benefits.

Claimant clearly failed to comply with JET requirements and department's proposed action on her FIP benefits is correct.

Department's policy in regards to FAP noncompliance with employment-related activities states:

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.

Department therefore correctly took action to sanction claimant's FAP benefits 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 reduce her FAP benefits in August, 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: October 14, 2009

Date Mailed: October 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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