

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: 2009-36938
Issue No: 1038
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
January 14, 2010
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 January 14, 2010. Claimant personally appeared and testified.

ISSUE

Did the department correctly take action to terminate claimant's Family Independence Program (FIP) benefits in September, 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) participant. On August 24, 2009, JET staff, Karen Walker, [REDACTED], [REDACTED], documented that the claimant reported after 4:45 p.m. on August 21, 2009 to submit

job leads for this week, but as the building was already closed she was told by the staff person at reception desk her late job leads could not be accepted. (Department's Exhibit 6).

2. Ms. Walker further documented that she had heard the interaction of August 21, 2009, between the claimant and reception desk, and that the claimant contacted her on August 24, 2009 to state an injury prevented her from attending. Claimant also reported she had not seen a doctor. (Department's Exhibits 6 and 7).

3. On August 27, 2009, a [REDACTED], requested a triage be scheduled through an e-mail to claimant's DHS caseworker. Mr. Wolff explained in his e-mail that the claimant had failed to provide job search activity documentation for the week of August 17 thru August 21, 2009, which resulted in her being under required hours, and that she said she could not report on time due to an injury. (Department's Exhibit 2).

4. A triage was held on September 9, 2009, at which time the claimant failed to bring in documentation about her injury to support the dates of August 17 thru August 21, 2009 noncompliance. Claimant did bring in a statement for her finger injury, but it was dated for September 3, 2009. No good cause was found for claimant's JET noncompliance.

5. Department took action to terminate claimant's FIP benefits effective October 1, 2009. Claimant requested a hearing on September 10, 2009 and department deleted FIP negative action 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).

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.

Claimant is not disputing that she was a mandatory JET participant, or that she failed to turn in her job leads in a timely manner for the week of August 17 thru August 21, 2009. Claimant however testified that she broke her finger by slamming it into a window sometimes on or about August 19, 2009, but did not know she broke it. Claimant further testified that she was in pain and finally went to the emergency room on September 3, 2009 to have her finger treated. Documentation provided by the claimant does show she was in the emergency room on September 3, 2009, due to a broken finger. However, it is difficult to believe that the claimant would have a broken finger for two weeks prior to seeking any type of medical attention. Claimant does not have any verification of her finger injury for the period of time that is at issue at this hearing, that being the week of August 17 thru August 21, 2009.

Claimant also admits that she was late on August 21, 2009, in arriving to the JET site to submit her job leads. Claimant's excuse is that she had transportation problems on this date. Claimant also states that she spoke to a [REDACTED], [REDACTED], on August 21, 2009, and that he told her she can turn in her job leads late, on Monday August 24, 2009. Review of JET notes shows that the last time [REDACTED] had contact with the claimant was June 30, 2009, and that all other entries are from other [REDACTED] staff. [REDACTED], [REDACTED], documented that she overheard claimant's conversation with the receptionist on August 21, 2009, but does not mention anything about the claimant being told she can submit job leads late. Furthermore, Ms. Walker told the claimant on August 24, 2009, that her late job leads cannot be accepted and that her JET file will close.

In conclusion, claimant's failure to provide job leads for August 17 thru August 21, 2009 cannot be excused due to medical issues, as she does not have any documentation of a finger injury for this period of time. Claimant's failure to arrive in a timely manner to [REDACTED] on August 21, 2009 to provide her job leads also cannot serve as a valid excuse. The purpose of the JET program is to have clients be job ready by showing among other things responsibility, timeliness and punctuality with their assignments. Claimant therefore needed to plan her day and/or transportation issues so she could submit job leads on time, but failed to do so.

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 in September, 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: February 2, 2010

Date Mailed: February 11, 2010

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.

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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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