

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: 2009-37021
Issue No: 1002
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
October 28, 2009
Washtenaw County DHS

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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 October 28, 2009. Claimant was present and testified. Marilyn Hugan, JET worker, Elke Tucker, MIS specialist for JET, and Mary Louise Batkins, FIM, appeared on behalf of the department.

ISSUE

Did the Department of Human Services (department) properly deny claimant's September 10, 2009 Family Independence Program (FIP) application because of a prior sanction?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

- (1) On September 10, 2009, claimant applied for FIP benefits.

(2) On September 10, 2009, the department denied the FIP application because claimant was under a three month sanction as a result of a prior hearing outcome.

(3) On September 11, 2009, claimant filed a hearing request contesting the department's FIP determination.

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 Dependant 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 Family Independence Program (FIP) provides temporary cash assistance to support a family's movement to self-sufficiency. The recipients of FIP engage in employment and self-sufficiency-related activities so they can become self-supporting. Federal and State laws require each work eligible individual (WEI) in the FIP group to participate in the Jobs, Education and Training (JET) Program or other employment-related activities unless temporarily deferred or engaged in activities that meet participation requirements. These clients must participate in employment and/or self-sufficiency related activities to increase their employability and obtain stable employment. PEM 230A.

JET is a program administered by the Michigan Department of Labor and Economic Growth (DLEG) through the Michigan Works Agencies (MWAs). The JET program serves employers and job seekers for employers to have skilled workers and job seekers to obtain jobs that provide economic self-sufficiency. PEM 230 A. A mandatory participant in the JET

program who fails without good cause to participate in employment activity must be penalized. PEM Manual Item 233(a). The penalty for the first occurrence of noncompliance in the JET program is a closure for a minimum of three calendar months under the FIP program. PEM Manual Item 233(a). If a customer is found in noncompliance with FIP when they are also a recipient of FAP, their FAP case will also be penalized for a minimum of three months under the JET program. PEM Manual Item 233(b); 42 USC 607. Good cause is a valid reason for noncompliance with employment related activities. A claim of good cause must be verified and documented for applicants, members, and recipients. PEM Manual Item 230(a), PEM Manual Item 230(b); 7 CFR Parts 272 and 273.

In the present case, claimant was under a three month sanction for FIP benefits as a result of a prior hearing outcome. The prior hearing was scheduled for August 20, 2009 regarding the department's proposed closure and sanction of claimant's FIP case due to noncompliance with work-related activities in the JET program. At the October 28, 2009 hearing, claimant testified that she did receive the mailed notice for the August 20, 2009 hearing, but did not attend due to her own mistake with the date and everything else she had going on at the time. As a result of claimant's failure to appear at the August 20, 2009 hearing, an Order of Dismissal was issued August 24, 2009 indicating that the department could proceed with the proposed action. (Department Exhibit 1, pg. 12) Accordingly, the department proceeded with the closure of claimant's FIP case and imposition of a three month sanction for the months of September, October and November 2009 for noncompliance with the JET program. (Hearing Summary) The Order of Dismissal directed that if claimant had any questions, she should call the SOAHR office. (Department Exhibit 1, pg. 12)

Instead, claimant reapplied for FIP benefits on September 10, 2009 and her application was denied the same day due to the three month sanction. Claimant then filed a new hearing

request on September 11, 2009. As stated during the hearing, this ALJ does not have jurisdiction to review the outcome of a prior hearing. If claimant disagreed with the outcome from the August 20, 2009 hearing, claimant should have contacted the SOAHR office as directed in the Order of Dismissal. Therefore, this ALJ cannot consider claimant's arguments regarding the reasons for her noncompliance with the JET program that were at issue in the prior hearing and resulted in the case closure and imposition of the sanction period. The only department action this ALJ has the requisite jurisdiction to review is the department's denial of claimant's September 11, 2009 application for FIP benefits.

When claimant filed the September 10, 2009 application, she was under a three month sanction resulting from the prior hearing outcome. Accordingly, the claimant was not eligible to receive FIP benefits for the months of September, October and November 2009.

Based upon the foregoing facts and relevant law, it is found that the department properly denied the September 10, 2009 FIP application because claimant was in the first of a three month sanction period. Claimant sanction period run through November 2009 so claimant may wish to re-apply for FIP benefits for December 2009 eligibility.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides claimant was not eligible to receive FIP benefits when she filed the September 10, 2009 application because she was in the first of a three month sanction period.

Accordingly, the department's FIP determination is AFFIRMED.

/s/ _____
Colleen Lack
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: November 6, 2009

Date Mailed: November 6, 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 mailing date of the rehearing decision.

CL/cv

cc:

