

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: 2009-5884
Issue No: 1038
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
February 3, 2009
Berrien 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 February 3, 2009. Claimant personally appeared and testified.

ISSUE

Did the department correctly take action to terminate claimant's Family Independence Program (FIP) benefits in December, 2008?

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 the department received a Welfare Reform Training/Service Activity Form on November 17, 2008 from WF/JET staff saying the claimant has been assigned to triage (Department's Exhibit #1, page 1).

2. Update/View Case Notes completed by WF/JET staff show that the claimant had seven missing assignments connected to job search since April 16, 2008, last one being on November 12, 2008 (Department's Exhibit #2, pages 1-4).

3. Claimant previously signed a Job Search Activities form detailing job search requirements. In addition, claimant also signed Job Search Guidelines and Check-In Schedule form on August 27, 2008, telling her what she must do as a Job Seeker (Department's Exhibit #2, pages 5-7).

4. On August 28, 2008 claimant was given a letter from [REDACTED] telling her she must participate in a volunteer activity and contact the Volunteer Center of Southwest Michigan to ask to be assigned to volunteer work, by September 12, 2008. The form stated that if the claimant failed to participate in a volunteer activity, she would receive a missed assignment (Department's Exhibit #2, page 8).

5. On December 1, 2008 department mailed the claimant a Notice of Noncompliance scheduling a triage appointment for December 3, 2008, for the claimant to provide any good cause reasons for WF/JET noncompliance (Department's Exhibit #3, page 1).

6. Claimant attended the triage. Department determined that the claimant had no good cause for missing assignments, approximately seven of them, as she had been given notification of what her requirements and expectations were while being a participant of the WF program (Department's Exhibit #4, page 1).

7. Claimant's FIP case was to close on December 13, 2008. Claimant requested a hearing at the triage on December 3, 2008, and department deleted FIP negative action pending the outcome of this hearing.

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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 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

A Work Eligible Individual (WEI), see PEM 228, who fails, without good cause, to participate in employment or self-sufficiency-related activities, must be penalized.

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.

Department received information from WF/JET staff that the claimant was in noncompliance with her assigned employment-related activities. Update/View Case Notes are extremely detailed in describing all of the actions and contacts WF/JET staff had with the claimant since July, 2007, and therefore very persuasive in reaching a conclusion that they are accurate. Claimant's testimony is that she could not have missed seven assignments, and if that is true, why would WF/JET staff not find her in noncompliance sooner if she indeed started missing such assignments in April, 2008. JET Career Developer present at the hearing explains that the claimant was given extended opportunity to satisfy her WF/JET requirements by the WF/JET counselor that took over her case in September, 2008, and prevent sanctions on her FIP benefits. However, according to WF/JET notes, claimant had a missed assignments on October 15, 2008, October 21, 2008 and November 12, 2008.

The fact that WF/JET staff gave the claimant additional opportunity to satisfy her WF/JET requirements instead of attempting to sanction her FIP benefits cannot be a valid reason for concluding that the claimant had a valid reason not to complete such requirements. On the contrary, claimant should have taken advantage of such additional opportunity and made sure she did not have more missed assignments. Claimant unfortunately did not 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 December, 2008.

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 10, 2009

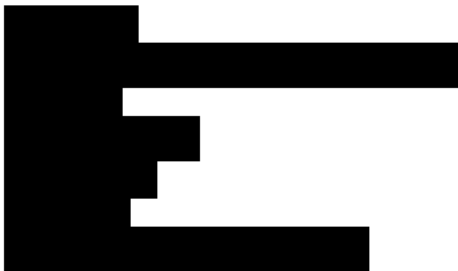
Date Mailed: February 12, 2009

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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