

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: 2009-7333
Issue No: 1038
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
February 5, 2009
Washtenaw 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 5, 2009. Claimant personally appeared and testified.

ISSUE

Did the department correctly 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 recipient of FIP benefits and deferred from participation in employment-related activities, namely Work First/Jobs, Education and Training (WF/JET) program.

2. Department conducted a review of claimant's FIP case in August, 2008 and requested that the claimant provide additional medical information if she needed a continued deferral from WF/JET program. On August 15, 2008, claimant was given a Verification Checklist along with a Medical Needs form with a due date of August 27, 2008 (Department's Exhibits #4 and 5).

3. Claimant did not return requested medical information. Department then mailed the claimant a WF/JET appointment notice for September 1, 2008. As this was a holiday, claimant's WF/JET appointment was rescheduled for September 8, 2008 (Department's Exhibits #6 and 7).

4. Claimant reported to WF/JET on September 8, 2008, but was sent away due to the referral for September 1, 2008, expiring. A new referral was needed and claimant was then scheduled to report to WF/JET on September 29, 2008, and advised of this with another Verification Checklist and WF/JET appointment notice (Department's Hearing Summary and Exhibits #8 and 9).

5. Welfare Registration Participant History for the claimant showed that she did not show up for WF/JET appointment of September 29, 2008, and that she had not attended WF/JET at all up to October 16, 2008, last date to attend JET orientation for her (Department's Exhibit #10).

6. On November 25, 2008, department mailed the claimant a Notice of Noncompliance due to her being a no show for JET and scheduling a triage appointment for December 5, 2008, to discuss any good cause for the noncompliance she may have (Department's Exhibit #12).

7. Claimant stated at the triage that her son broke his leg and she had to take him back and forth to school, she has been going to JET but was excused when her son broke his leg on October 19, 2008, by a [REDACTED] her case manager at JET. Claimant's caseworker contacted [REDACTED] while the claimant was in the office and was told that the claimant was a no show and never on her case load (Department's Hearing Summary and Exhibit #15).

8. Claimant had no medical documentation for her son's condition. No good cause was found for claimant's WF/JET noncompliance. Claimant's FIP benefits closed on December 6, 2008, and she requested a hearing on December 8, 2008.

9. At the hearing claimant testified that she went to WF/JET from September 8, 2008, every day until middle of October, 2008, when her son broke his leg. JET MIS Specialist present at the hearing was asked to provide additional attendance records to determine if the claimant indeed attended WF/JET as she was required to do. Claimant also stated she has additional WF/JET documents at home she wished to submit.

10. On February 18, 2009, department provided additional WF/JET records. These records show that claimant did not attend JET orientation/workshops from September 15, 2008, to October 17, 2008. Enrollment and Orientation Attendance Sheets provided for this period of time have signatures of other individuals that attended JET program on these dates, however claimant's signature is not on any of them.

11. Claimant failed to provide any additional information even though she was given approximately 20 days from the date of the hearing to do so. Claimant had previously provided an Appointment Reminder for December 12, 2008, and a medical bill for a hospital visit of November 13, 2008, and these forms were included in the original hearing packet (Department's Exhibits #1 and 2).

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.

GOOD CAUSE FOR NONCOMPLIANCE

Good cause is a valid reason for noncompliance with employment and/or self-sufficiency-related activities that are based on factors that are beyond the control of the noncompliant person. A claim of good cause must be verified and documented for member adds and recipients. Document the good cause determination on the DHS-71, Good Cause Determination and the FSSP under the “Participation and Compliance” tab.

See “School Attendance” PEM 201 for good cause when minor parents do not attend school.

TRIAGE

JET participants will not be terminated from a JET program without first scheduling a “triage” meeting with the client to jointly discuss noncompliance and good cause. Locally coordinate a process to notify the MWA case manager of triage meetings including scheduling guidelines.

Clients can either attend a meeting or participate in a conference call if attendance at the triage meeting is not possible. If a client calls to reschedule an already scheduled triage meeting, offer a phone conference at that time. Clients must comply with triage requirement within the negative action period.

When a phone triage is conducted for a first noncompliance and the client agrees to comply, complete the DHS-754, First Noncompliance Letter, as you would complete in a triage meeting. Note in the client signature box “Client Agreed by Phone”. Immediately send a copy of the DHS-754 to the client and phone the JET case manager if the compliance activity is to attend JET.

Determine good cause based on the best information available during the triage and prior to the negative action date. Good cause may be verified by information already on file with DHS or MWA.

If the FIS, JET case manager, or MRS counselor do not agree as to whether “good cause” exists for a noncompliance, the case must be

forwarded to the immediate supervisors of each party involved to reach an agreement.

DHS must be involved with all triage appointment/phone calls due to program requirements, documentation and tracking.

Note: Clients not participating with JET must be scheduled for a “triage” meeting between the FIS and the client. This does not include applicants. PEM 233A, p. 7.

Good Cause Established

If the client establishes good cause within the negative action period, do **NOT** impose a penalty. See “Good Cause for Noncompliance” earlier in this item. Send the client back to JET, if applicable, after resolving transportation, CDC, or other factors which may have contributed to the good cause. Do not enter a new referral on ASSIST. Enter the good cause reason on the DHS-71 and on the FSSP under the “Participation and Compliance” tab.

Good Cause NOT Established

If the client does NOT provide a good cause reason within the negative action period, determine good cause based on the best information available. If no good cause exists, allow the case to close. If good cause is determined to exist, delete the negative action. PEM 233A, pp. 10-11.

Claimant was a mandatory WF/JET participant and therefore required to attend this program. Department explains that there was a mix up with JET referral for the claimant when she was scheduled for an appointment there on September 1, 2008, which was a holiday. Furthermore, department then sent the claimant back to WF/JET on September 8, 2008, without doing a new referral, so WF/JET staff could not start working with her. However, claimant was then scheduled for WF/JET for September 29, 2008, with a proper referral. Claimant’s testimony is that she started WF/JET program on September 8, 2008, and attended every day up to October 15, 2008, when her son broke his leg. Claimant stated she could provide WF/JET documentation to prove she indeed did so, however such documentation was never submitted following the hearing. Department however did submit WF/JET records for September and

October, 2008 that clearly show that the claimant did not attend this program at all from at least middle of September through October 17, 2008. Claimant's hearing testimony that she was in compliance with WF/JET is therefore found not to be credible.

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 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: March 9, 2009

Date Mailed: March 10, 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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