

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: 2009-7359
Issue No: 1021
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
February 9, 2009
Kent County DHS

ADMINISTRATIVE LAW JUDGE: Tyra L. Wright

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 hearing was held on February 9, 2009. Claimant and two witnesses personally appeared and testified.

ISSUE

Did the Department act properly in sanctioning Claimant by closing her Family Independence Program (FIP) and Food Assistance Program (FAP) cases on the grounds that she failed to attend the Jobs, Education and Training (JET) program?

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 is a FIP and FAP recipient.
- (2) Claimant works at a [REDACTED] retail store.

(3) On November 19, 2008 a JET intake worker referred Claimant to the [REDACTED], a job search and readiness program, for an appointment on November 24, 2008.

(4) Claimant did not attend the [REDACTED] on November 24, 2008 because she worked a shift at the [REDACTED] store on November 24, 2008.

(5) On December 1, 2008, Claimant told her Department worker that she did not attend JET because she worked more than 30 hours a week that week.

(6) On December 12, 2008 a triage meeting was held. At this hearing, the Department contended that Claimant yelled, used profanity and acted unprofessionally at the triage meeting. Claimant and witness who attended the hearing denied that Claimant yelled, used profanity or acted unprofessionally at the meeting.

(7) Moreover, Claimant asserted that she offered evidence at the hearing that she worked on November 24, 2008 and that she told the worker that the pay stub that she would receive in several days would establish that she worked more than 30 hours during the week that she was assigned to go to the [REDACTED].

(8) Claimant also asserted that the worker refused to accept a handwritten note from her employer and her check stubs that she offered at the triage meeting.

(9) At this hearing, Claimant provided a pay stub that established that for the two-week period beginning November 23, 2008 through December 6, 2008, she worked 68.50 hours. (Exhibit 4).

(10) On December 16, 2008, the Department closed Claimant's FIP and FAP cases as a sanction on the grounds that she "did not provide Good Cause documentation excusing why she yelled at JET staff and then requested her JET file be closed."

(11) Claimant disagreed with the Department's determination on the grounds that she was not given the opportunity to provide evidence of good cause, had worked more than 30 hours that week, and did not act inappropriately.

(12) The Department received Claimant's hearing request on December 15, 2008.

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 (formerly known as the Family Independence Agency) 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 for FIP 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 (formerly known as the Family Independence Agency) 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).

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. (PEM 233A, p. 1)

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.

If it is determined during triage the client has good cause, and good cause issues have been resolved, send the client back to JET. Do not do a new JET referral. (PEM 233A, p. 4)

DEPARTMENT PHILOSOPHY

DHS requires participation in employment and/or self-sufficiency related activities associated with the Family Independence Program (FIP) or Refugee Assistance Program (RAP). Applicants or recipients of Food Assistance Program (FAP) only must accept and maintain employment. There are consequences for client, who refuse to participate in FIP/RAP employment and/or self-sufficiency-related activities or refuses to accept or maintain employment without good cause.

DEPARTMENT POLICY

The policies in this item apply to all FAP applicants and recipients age 16 and over. Noncompliance, without good cause, with employment requirements for FIP/RAP (see [PEM 233A](#)) may affect FAP if **both** programs were active on the date of the FIP noncompliance.

Exception: See [PEM 233C](#) for FAILURE TO MEET EMPLOYMENT REQUIREMENTS: RAP CASH. RAP clients do not have the “Last RAP” budgeted on their FAP benefits, but can be disqualified from FAP.

Michigan’s FAP Employment and Training program is voluntary and penalties for noncompliance may only apply in the following two situations:

- Client is active FIP/RAP and FAP and becomes noncompliant with a cash program requirement without good cause.
- Client is pending or active FAP only and refuses employment (voluntarily quits a job, is fired or voluntarily reduces hours of employment) without good cause.

At no other time is a client considered noncompliant with employment or self-sufficiency related requirements for FAP. (PEM 233B, p. 1)

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Under PEM 233A, clients are required to “participate in employment and self-sufficiency related activities and to accept employment when offered.” The goal is “to assist clients in removing barriers so they can participate in activities which lead to self-sufficiency.” In this case, Claimant had a job at [REDACTED] and was scheduled to work on the day that she was to report to the JET Step Program. It is counter-intuitive that she would not attend her employment so that she could attend a program intended to lead her to employment or self-sufficiency. Moreover, the Department refused to consider Claimant’s evidence that she worked on the day she was to attend the Step Program. In addition, the Department did not establish that Claimant behaved inappropriately at the triage meeting.

Under these circumstances, it is found that the Claimant did not refuse to participate in the JET Step Program, but rather had a conflict with her work schedule. Then the Department did not consider her work schedule at the triage meeting and, therefore, did not make a reasonable effort to reschedule the JET Step Program appointment. Under these circumstances it is found

that the Department acted improperly in closing Claimant's FIP and FAP cases due to noncompliance with JET program requirements.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department improperly sanctioned Claimant by closing the FIP and FAP cases.

Accordingly, the Department's action is REVERSED. The Department is ORDERED to calculate the benefits Claimant would have received had her FIP and FAP cases not been improperly closed and issue any retroactive FIP and FAP benefits that she is eligible to receive.

/s/ _____
Tyra L. Wright
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: February 17, 2009

Date Mailed: February 20, 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.

TLW

cc:

