

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: 2009-10604

Issue No: 1038

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

April 9, 2009

Clare 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 April 9, 2009. Claimant personally appeared and testified along with her sister [REDACTED]

ISSUE

Did the department correctly take action to terminate claimant's Family Independence Program (FIP) benefits in January, 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 who signed Work and/or Self-Sufficiency Rules for Cash Recipients (DHS-1538) form on October 1, 2007. Claimant's signature indicates she acknowledged she understood program requirements (Department's Exhibit #1).

2. The DHS-1538 states that the claimant may be referred to family strengthening activities that will help her become self sufficient, and that there are penalties for not cooperating with work or family strengthening requirements unless there is a good reason.

3. Claimant was subsequently verbally threatening to her caseworker as she stated she would “bash” her head in, after being in noncompliance with the JET program on September 11, 2008.

4. Claimant’s caseworker deferred her from WF/JET and required she engage in family strengthening activities, with assignment being that claimant was to attend anger management sessions, ten total. The purpose of the assignment was so the claimant could achieve effective communication skills without verbally threatening people. The goal was viewed as attainable and this became part of claimant’s Family Self Sufficiency Plan.

5. [REDACTED] Monthly Progress/Service Report dated November 5, 2008, states that claimant attended a session on October 20, 2008, but missed sessions on October 16th and 27th, 2008, both times reporting no transportation. It is noted that the claimant has agreed to comply with treatment recommendations (Department’s Exhibit #2).

6. Monthly Progress/Service Report dated December 8, 2008, states that claimant has not attended since October 20, 2008, and there has been no contact from her since she cancelled the appointment on October 27, 2008 (Department’s Exhibit #3).

7. On December 30, 2008, department mailed the claimant a Notice of Noncompliance scheduling a triage appointment for her for January 12, 2009, to discuss her reasons for failure to keep appointments for anger management counseling (Department’s Exhibits #4 and 5).

8. Claimant attended the triage stating her transportation did not show up for the October 27, 2008, appointment. No verification was provided. Claimant stated that she did not

reschedule the appointment because she thought she did not need to attend anymore since she went to a MRS appointment. No good cause was given.

9. Claimant's FIP benefits were scheduled to close on January 13, 2009. Claimant requested a hearing on January 8, 2009, and department deleted negative action pending the outcome of this hearing.

CONCLUSIONS OF LAWThe 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.

Claimant was verbally threatening to her caseworker. This fact alone would have been sufficient for a determination that the claimant was noncompliant with employment-related activities, according to the above-quoted policy. Claimant's caseworker testified that she felt claimant had anger management issues and this is why she referred her for counseling sessions. The attendance at the counseling sessions became part of claimant's Family Self-Sufficiency Plan. Failure to comply with activities assigned to on the Family Self-Sufficiency Plan is another reason that leads to a determination that a client is noncompliant with employment-related activities. Claimant cancelled her counseling appointments on two dates in October, 2008 due to alleged transportation problems. Claimant's caseworker testified that she gave the claimant instructions to contact MA line for transportation, and this testimony is undisputed by the claimant. Claimant furthermore never contacted her counselor to reschedule her anger management sessions from October 27, 2008 through December 8, 2008.

Claimant's sister testified for the majority of the hearing on claimant's behalf, and states that the claimant lives with her father in law in a residence at the end of her parents' driveway, that she has problems following up with things, and that she helps her out. Claimant's caseworker further stated that the claimant did not keep an MRS appointment either. Claimant's sister was asked why she did not insure that her sister make it to the appointments if she is indeed taking care of majority of things for her. Response is that the claimant receives her mail

and does not show some of it to anyone. Claimant's sister also offered an opinion that the claimant may be bi-polar.

Claimant was asked by this Administrative Law Judge why she did not keep her appointments with the counselor, or her MRS appointments. Claimant stated that she picks and chooses which appointments she will keep. Claimant certainly has the right to do so. However, consequences of not complying with employment-related activities without good cause are FIP benefit sanctions. Claimant's caseworker testified that she could have filed a complaint with the local police department after claimant verbally threatened her, but chose not to do so, and instead explored ways to help the claimant by referring her to anger management sessions. Therefore, department was sensitive to any issues claimant may have had, and took action beyond what is required by policy for abusive behavior in order to assist the claimant in resolving her issues. Claimant chose not to avail herself of such assistance without good cause 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 January, 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: April 13, 2009

Date Mailed: April 14, 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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