

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: 2009-10968

Issue No: 1021

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

February 25, 2008

Muskegon 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 25, 2009. Claimant personally appeared and testified. A family independence manager represented the Department.

ISSUE

Did the Department properly close Claimant's Family Independence Program (FIP) case due to her failure to attend a triage meeting?

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 had been a FIP benefit recipient for a group size of two
- (2) The Department contends that a triage meeting was scheduled for November 26, 2008 due to Claimant's failure to attend the Jobs, Education, and Training (JET) Program.

(3) Because Claimant did not attend the triage meeting, the Department closed her FIP case on December 1, 2008.

(4) The Department did not have a record of having sent Claimant notification of the triage.

(5) Likewise, Claimant asserted that she was never notified of the triage. Claimant asserted that she did not learn that a triage had been scheduled until January 15, 2008 when she went to the Department office for a meeting with her worker.

(6) The Department received the hearing request on January 2, 2009. (Exhibit 1).

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).

DEPARTMENT POLICY FIP, RAP Cash

Federal and State laws require each work eligible individual (WEI) in the FIP and RAP 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, pg. 1)

NONCOMPLIANCE PENALTIES FOR ACTIVE FIP CASES AND MEMBER ADDS

The penalty for noncompliance without good cause is FIP closure. Effective April 1, 2007, the following minimum penalties apply:

- For the first occurrence on the FIP case, close the FIP for not less than three calendar months unless the client is excused from the noncompliance as noted in [First Case Noncompliance Without Loss of Benefits](#) below.
- For the second occurrence on the FIP case, close the FIP for not less than three calendar months.
- For the third and subsequent occurrence on the FIP case, close the FIP for not less than 12 calendar months. (PEM 233A, p. 6).

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 requirements 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. Good cause must be considered even if the client does not attend, with particular attention to possible disabilities (including disabilities that have not been diagnosed or identified by the client) and unmet needs for accommodation.

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, pg.8-9).

In this case, Claimant was not notified that a triage had been scheduled. The Department did not meet its burden of establishing that a triage had been scheduled. The Department has no documentation that a triage notification was sent to Claimant. Under these circumstances, it is found that the Department improperly closed Claimant's case on the grounds that she did not comply with JET requirements and did not attend a triage meeting.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department improperly closed Claimant's FIP case.

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

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

Date Signed: March 2, 2009

Date Mailed: March 3, 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:

A large black rectangular redaction box covers the names and contact information of the individuals listed in the 'cc:' field.