

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: 2009-11130
Issue No: 1038
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
February 24, 2009
Saginaw 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 24, 2009. Claimant personally appeared and testified.

ISSUE

Did the department correctly deny claimant's Family Independence Program (FIP) application 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 applied for FIP on October 29, 2008 (Department's Exhibits #1-16).
2. Claimant completed a Jobs and Self-Sufficiency Survey and signed Work and/or Self-Sufficiency Rules for Cash Recipients form explaining her employment-related activity requirements on November 14, 2008 (Department's Exhibits #26-28).

3. Claimant was also given a Work First/Jobs, Education and Training (WF/JET) Appointment Notice giving her a choice of two appointments with WF/JET she had to attend, on November 17 and 24, 2008 (Department's Exhibit #29).

4. Welfare Registration Participant History shows that the claimant did not attend orientation as of December 3, 2008 (Department's Exhibit #30). Update/View Case Notes completed by WF/JET staff state that the claimant "did not complete first day of JET activity" on November 17, 2008 (Department's Exhibit #31).

5. The Notes further state that on December 1, 2008, claimant came in to see the JET Case Manager about her employment, that she was supposed to go to see "V&A" by December 5, 2008, she had misunderstood the letter and thought she was supposed to come back to see her CM, and that she left because she had a 3 p.m. interview.

6. The Notes of December 12, 2008, indicate that an error occurred when the letter to attend V&A was given to the claimant at orientation, the letter sated December 5, 2008 as the last date to attend and the letter should have read December 3, 2008, and that the claimant did not complete "the requirements" on December 3, 2008, or on December 5, 2008.

7. Department also provided a Notice of MW/JET Orientation Verification & Assignment for the claimant dated November 17, 2008 stating that the claimant is required to attend the MW/JET Verification and Assignment component before Friday, December 5, 2008, and that she must bring copies of her check stubs for the last two weeks or the employment verification form completed by her employer that she received at orientation (Department's Exhibit #33).

8. Department denied claimant's FIP application on December 1, 2008, for failure to complete her WF/JET orientation on November 17, 2008 or November 24, 2008 (Department's Hearing Summary). Claimant requested a hearing on December 8, 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 (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, RAP Cash

Clients must be made aware that public assistance is limited to 48 months to meet their family's needs and that they must take personal responsibility to achieve self-sufficiency. This message, along with information on ways to achieve independence, direct support services, non-compliance penalties, and good cause reasons, is initially shared by DHS when the client applies for cash assistance. Jobs, Education and Training (JET) program requirements, education and training opportunities, and assessments will be covered by the JET case manager when a mandatory JET participant is referred at application. PEM 229, p. 1.

Timing of JET Referral

Mandatory JET clients must be sent to JET upon application for FIP. Do not send any others to JET at application, unless a deferred client volunteers to participate. All JET referrals must be sent through ASSIST. ASSIST will generate an automated DHS-

2439, Michigan Works Referral to the Michigan Works! Agency's (MWA's) Management Information System (MIS) upon completion of the initial interview in ASSIST. Clients can reapply for FIP at any time after their application is denied for failing to appear or participate with JET.

FAST and FSSP Notice

All clients including mandatory JET participants will receive an automated notice upon completion of the initial interview in ASSIST.

JET Appointment Notice and JET Attendance Requirements

Exception: Use the DHS-4785, JET Appointment Notice at **application** to schedule an appointment for each mandatory JET participant. Include the date, time and location to appear for their JET assignment. When assigned, clients must engage in and comply with all JET assignments while the FIP application is pending. JET engagement is a condition of FIP eligibility. PEM 229, p. 2.

Failure by a client to participate fully in assigned activities while the FIP application is pending will result in denial of FIP benefits, if upon the day of case processing the client is in noncompliance with JET. Use ASSIST denial code 463 and CIMS denial code 210 for clients denied FIP benefits for noncompliance while the application is pending. Retain a copy of the appointment notice in the case record. Do not penalize Food Assistance when a client fails to attend JET as a condition of eligibility when the noncompliant person is not active FIP on the date of the noncompliance. Clients must be active FIP to apply a FIP penalty to the FAP case. PEM 229.

According to department's WF/JET appointment notice, claimant was instructed to report for orientation to WF/JET either on November 17, 2008 or November 24, 2008 (see Finding of Fact #3). Welfare Registration Participant History does not have any entries indicating that the claimant reported to WF/JET as of December 3, 2008 (see Finding of Fact #4). However, this form contradicts Update/View Case Notes completed by WF/JET staff that indicates that the claimant was indeed at orientation on November 17, 2008. Furthermore, a Notice of MW/JET

Orientation Verification & Assignment dated November 17, 2008, with claimant's name on it requires the claimant to provide check stubs or employment form completed by her employer by December 5, 2008 (see Finding of Fact #7). Therefore, it is evident that the claimant indeed attended WF/JET on November 17, 2008, as she would not otherwise receive this form. WF/JET notes also state that the claimant should have been given until December 3, 2008, to provide requested information, and not until December 5, 2008 (see Finding of Fact #6).

MW/JET representative at the hearing first testified that the claimant never provided any type of employment verification. Claimant contradicted this testimony by stating she did provide her pay stubs to this representative on November 26, 2008. Further testimony was that the claimant indeed provided requested information on November 26, 2008, but to the wrong person at MW/JET site, the same person that saw the claimant on November 17, 2008. The correct person to whom the claimant was to provide employment verification to (who is not named in the MW/JET Orientation Verification & Assignment letter given to the claimant on November 17, 2008) is in the same location and only a few offices away from the person that received requested verification from the claimant.

Department incorrectly denied claimant's application on December 1, 2008, as the reason for the denial according to the Hearing Summary is claimant's failure to attend WF/JET on November 17 or 24, 2008. Based on the evidence presented, it is clear that the claimant indeed attended WF/JET on November 17, 2008. Furthermore, claimant was given until December 5, 2008 to provide verification of her employment to WF/JET, and department therefore could not have denied her application prior to this date. WF/JET staffs are contracted by the department and a client cannot be given contradictory deadlines that cause her application to be denied. Department's application denial appears to be based on lack of communication

with WF/JET staff, however the claimant also cannot be held responsible for that. It is also apparent that the claimant provided her pay checks on November 26, 2008, to WF/JET staff person she saw on November 17, 2008. The claimant provided requested information to a WF/JET staff member with whom she was familiar with and that knew what the claimant had to provide. This staff member could have easily walked over this information to the person to whom it should have been provided, as she testified that this person's office is in close proximity to hers. This Administrative Law Judge does not find it unreasonable that when an employee receives mail or documents meant for another employee in the same location, such paperwork should be delivered to the correct employee.

Department's position is also that the claimant failed to report her employment on her October 29, 2008, application and again on November 14, 2008, when she was seen in person and re-signed her application. Claimant testified that she was working sporadically, and the pay stub she provided does show that this is true.

In conclusion, after reviewing all of the documentation provided for this hearing and considering hearing testimony, department's denial of claimant's FIP application cannot be upheld.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department incorrectly denied claimant's October 29, 2008 FIP application.

Accordingly, department's action is REVERSED. Department shall:

1. Re-process claimant's FIP application and issue her any FIP benefits she is entitled to receive based on the October 29, 2008, application date.

2. Department may obtain any additional income information including claimant's new employment that started on January 5, 2009, according to her hearing testimony, prior to computing what FIP benefits claimant was/is entitled to. Department shall use Verification Checklist, DHS-3503, to obtain such information, by giving the claimant 10 days to do so.

3. Notify the claimant in writing of FIP eligibility determination.

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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