

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.: 2009-11430

Issue No.: 1038

Case No.: [REDACTED]

Load No.: [REDACTED]

Hearing Date:

April 9, 2009

Jackson County DHS

ADMINISTRATIVE LAW JUDGE: Michael J. Bennane

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9; MSA 16.409 and MCL 400.37; MSA 16.437 upon the Claimant's request for a hearing. After due notice a telephone hearing was held on April 9, 2009. The Claimant personally appeared and testified.

ISSUE

Did the Department properly attempt to close the Claimant's Family Independence Program (FIP)?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material and substantial evidence on the whole record, finds as material fact:

1. The Claimant is a FIP and FAP recipient. The group size is one (1).
2. On January 15, 2009, the department sent the claimant a notice of noncompliance with work related activities, with a triage scheduled for January 20, 2009. (Department exhibit 6).

3. On January 20, 2009, the claimant attended the triage and the department found no good cause. (Department exhibit 2).
4. On January 20, 2009, the claimant filed a request for a hearing.

#### 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 are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

At the hearing the department testified that if the claimant has listed all family strengthening activities and rehabilitation services in her log she would have met the Jobs Education and Training (JET) requirements.

#### Clients Referred by DHS

In cases where FIP clients are receiving services from Michigan Rehabilitation Services (MRS), FIP defers to the MRS plan for the clients, and fully counts the individuals as engaged in work activities if they are meeting their MRS work plan. (PEM 230A, p.10).

Here, the claimant was involved with MRS. This item does not say that the claimant must list these activities on their logs for it to be counted.

The department testified that JET asked for the triage because the claimant had not listed various activities aimed at strengthening the family as well as rehabilitation services.

The claimant testified that she did have learning problems; a fact that was backed up by department testimony.

According to the department's own testimony the claimant would not have been in violation of JET requirements if all activities performed by the claimant had been listed or credited.

The department should realize that JET is a tool used by the department to help make its recipients ready for work. The decision as to whether someone is in noncompliance with Jet is ultimately the department's not JET's.

This ALJ finds that the claimant was not in noncompliance and should never have been triaged. If part of the supposed lack of "good cause" was because the claimant cannot perform as requested by JET personnel and that the claimant "cannot remember simple instruction" then it might behoove JET to use more effective training methods!

This ALJ finds that the barriers presented by the claimant's learning disability were not properly addressed by the department or by JET.

## **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. (233A, p.1).

Here, the department was aware of the barrier experienced by the claimant. She was sent to MRS and was attending school to help correct the problem. It erred in finding no good cause even if we accept the technicality upon which the claimant was found to be in noncompliance. It should have addressed the barriers causing the noncompliance.

DECISION AND ORDER

The Administrative Law Judge based on the above findings of fact and conclusions of law, REVERSES AND ORDERS the Department to reopen the claimant's FIP and FAP, if they have been closed, and replace any lost benefits.

/s/ \_\_\_\_\_  
Michael J. Bennane  
Administrative Law Judge  
for Ismael Ahmed, Director  
Department of Human Services

Date Signed: 05/12/09

Date Mailed: 05/12/09

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 receipt 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.

MJB/jlg

cc:

