

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: 2009-12203

Issue No: 1038

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

April 1, 2009

Jackson 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 1, 2009. Claimant personally appeared and testified.

ISSUE

Did the department correctly deny claimant's Family Independence Program (FIP) application 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 applied for FIP on December 5, 2008, and signed Work and/or Self-Sufficiency Rules for Cash Recipients on this date (Department's Exhibit #1).
2. Claimant reported that she was homeless and department entered local county office as claimant's mailing address on their records.

3. Claimant was given a Work First/Jobs, Education and Training (WF/JET) Appointment Notice telling her she must report to WF/JET site on December 15, 2008 (Department's Exhibit #2).

4. Claimant reported to WF/JET site but failed to participate past the first week of information meeting of December 22, 2008 (Department's Exhibits #3 and 4).

5. On January 16, 2009, department denied claimant's FIP application because she was not compliant with WF/JET (Department's Exhibit #5). Claimant requested a hearing on January 21, 2009, stating she has health problems and does not feel she needs to go to Work First due to her condition.

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.

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, p. 2.

Claimant's caseworker followed the quoted policy in claimant's case, and once she did not report for WF/JET activities, denied her FIP application. This action would be accurate for clients that have no stated reasons not to participate in employment-related activities, and no legitimate reasons for deferrals from such activities. Claimant however, wrote in her hearing request that she had health problems. Claimant testified that she is having a problem pregnancy, that she is 7 months pregnant now, and that she has a painful hernia. When questioned, departmental representatives state that page 7, section E-10 of claimant's application was completed by her saying she cannot work. Departmental policy states:

Screening and Assessment

Be alert to undisclosed or unrecognized disabilities and offer screening and assessment as appropriate. Help clients understand that DHS can only offer accommodations if a disability is verified. Clients are screened for disabilities on the DHS-619, Jobs and Self-Sufficiency Survey and the FAST, which ask questions about medical problems, special education and symptoms of mental illness.

Inform clients requesting accommodation or deferral that they may be required to attend appointments with MRS, doctors, psychologists, or others to ensure that appropriate accommodations or deferrals are made. Explain that assessment is voluntary but failure to cooperate with assessment may prevent DHS from providing a deferral or accommodation. PEM 230A, pp. 2-3.

Deferral for Short-Term Incapacity

Defer persons with a mental or physical illness, limitation, or incapacity which is expected to last less than three months and which prevents participation. Defer for up to three months.

Verify the short-term incapacity and the length of the incapacity using a DHS-54A, Medical Needs form, or other written statement from an M.D. or D.O.

If a non-pregnancy-related condition lasts or is expected to last more than 3 months, follow deferral policy for long-term incapacity below.

Deferral for Long-Term Incapacity

Defer persons with a mental or physical illness, limitation, or incapacity expected to last more than three months and preventing their participation in employment-related activities.

When a client states they are disabled or indicates that he/she may be unable to participate in work or JET (including those who have applied for RSDI/SSI) because of a mental or physical condition, injury, illness, impairment, or problem at intake, review or anytime during an ongoing benefit period, require the client to provide verification from their doctor (a DHS-49 or DHS-54A may be used). PEM 230A, pp. 12-13.

As the department was made aware the claimant was saying she had health problems and could not work when she completed her FIP application on December 5, 2008, claimant should have been given the opportunity to provide medical information to determine if she was eligible for WF/JET referral.

Furthermore, department was aware that the claimant was homeless, as she was using local county office as her mailing address. Departmental policy provides for use of a WF/JET deferral using the local office discretion in certain situations. One of such situations is for persons experiencing a temporary critical event such as homelessness for up to 3 months. PEM, Item 230A, pp. 16-17. Department could offer no explanation as to why a deferral was not addressed for the claimant due to her stated homelessness.

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 FIP application in January, 2009.

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

1. Give the claimant a DHS-3503, Verification Checklist, along with a DHS-54A, Medical Needs form, with a deadline date to return either the DHS-54A or another document from her doctor regarding her medical condition and ability to participate in employment-related activities.
2. If the claimant returns this information by the deadline date, re-process claimant's FIP application based on December 5, 2008, application date, and consider if a WF/JET deferral was appropriate based on claimant's medical condition or her homelessness.

3. If the claimant should have been deferred from WF/JET participation and is otherwise eligible for FIP (i.e. meets financial and non-financial eligibility requirements), department is to grant the claimant FIP benefits based on December 5, 2008, application date.

SO ORDERED.

/s/ _____
Ivona Rairigh
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: April 7, 2009

Date Mailed: April 8, 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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