

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: 2009-12576
Issue No: 1038
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
May 6, 2009
Oakland County DHS (3)

ADMINISTRATIVE LAW JUDGE: Linda Steadley Schwarb

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 May 6, 2009. Claimant appeared and testified.

ISSUES

Does the Department of Human Services (DHS or department) properly propose to penalize claimant's Family Independence Program (FIP) case for failure to participate in Jobs, Education, and Training (JET)/Work First (WF) programming?

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 has been a recipient of FIP benefits and is a mandatory participant in JET/WF activities.
- (2) Claimant was properly informed of his obligation to participate in JET/WF activities.

- (3) On November 26, 2008, claimant signed in for JET/WF but failed to complete any job leads and had 0 hours for the day.
- (4) On December 5, 2008, claimant failed to turn in any job leads and had 0 hours for the week of November 30, 2008.
- (5) On December 8, 2008, despite claimant's assertion that he was participating in an insurance class, claimant did not provide proof that he had participated in educational programming.
- (6) On December 15, 2008, claimant did not appear for JET/WF programming and failed to call his JET/WF worker.
- (7) On January 2, 2009, the department sent claimant a DHS 2444, Notice of Employment and/or Self-Sufficiency-Related Noncompliance, regarding claimant's failure to participate in JET/WF requirements and scheduling a triage meeting for January █, 2009 at 3:00 pm.
- (8) Claimant failed to attend the triage meeting at the scheduled time on January █, 2009. Claimant appeared for his 3:00 triage meeting at 3:49 pm. Departmental and JET personnel were no longer available.
- (9) On January 14, 2009, claimant's departmental worker telephoned claimant to discuss claimant's failure to participate in JET/WF activities. Claimant failed to establish good cause for his failure to participate in mandatory JET/WF activities. The department did agree to refer claimant back to JET/WF programming for one last chance with a start date of January 19, 2009.

- (10) On January 14, 2009, the department sent claimant a DHS 1605, Notice of Case Action, indicating that claimant's FIP would be cancelled effective January 27, 2009 because claimant had failed to participate in employment and/or self-sufficiency-related activities.
- (11) On January 19, 2009, claimant appeared for his JET/WF activities at 9:54am instead of the scheduled time at 8:30am. Claimant was sent to a computer lab to perform job search. After ten minutes, claimant asked to use the restroom and never returned. Thereafter, Claimant did not contact his JET/WF or departmental workers.
- (12) On January 22, 2009, claimant filed a hearing request to protest the department's proposed closure of his FIP case.
- (13) Thereafter, the department reinstated claimant's FIP benefits pending the outcome of the instant 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 (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).

Relevant policy in this matter is as follows:

FAILURE TO MEET EMPLOYMENT AND/OR SELF-SUFFICIENCY-RELATED REQUIREMENTS: 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....

All Work Eligible Individual (WEI) ... who fail, without good cause, to participate in employment or self-sufficiency-related activities, must be penalized. PEM 233A p.1

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.... PEM 233A p. 6.

In this matter, claimant was mandatory JET/WF participant. He was not deferred from participation. Claimant was properly informed of his obligation to participate in JET/WF activities. The record supports a finding that claimant has failed to participate in assigned JET/WF activities. Claimant has not provided a good cause reason for his failure to participate in mandatory activities. Claimant was unable to establish that he took an insurance class. His laparoscopic surgery was not performed until [REDACTED]. Claimant has failed to establish a good cause reason for his failure to participate in mandatory JET/WF activities. Accordingly, the department's action in this matter was consistent with policy and must be up held.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department of Human Services properly proposes to penalize claimant's Family Independence Program case as a result of claimant's failure to participate in Jobs, Education, and Training/Work First activities. Accordingly, the department's proposed action in this matter must be AFFIRMED.

/s/_____
Linda Steadley Schwarb
Administrative Law Judge
for Ismael Ahmed, Director

Department of Human Services

Date Signed: 05/07/09

Date Mailed: 05/11/09

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.

LSS/jlg

cc:

