

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: 2009-14588

Issue No: 1038

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

March 25, 2009

Muskegon 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 March 25, 2009. Claimant personally appeared and testified.

ISSUE

Did the department correctly terminate claimant's Family Independence Program (FIP) benefits 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 was a FIP recipient when she was referred to Work First/Jobs, Education and Training (WF/JET) program. Claimant did not attend WF/JET.
2. A triage was held on November 13, 2008. Claimant reported she was having medical problems, high risk pregnancy, and that she provided a medical deferral to her last

worker. As there was no deferral in claimant's case, she was given a DHS-54A, Medical Needs form, to complete and return to the department for a possible WF/JET deferral.

3. Claimant did not return the DHS-54A. On December 8, 2008, department mailed the claimant a JET Appointment Notice telling her she must report to a JET site on December 15, 2008 (Department's Exhibit #7).

4. Claimant did not show for JET on December 15, 2008. On January 5, 2009, department mailed the claimant a Notice of Noncompliance scheduling a duage for January 13, 2009, due to her failure to attend WF/JET (Department's Exhibit #10).

5. Claimant did not show or call for the duage. Department terminated claimant's FIP benefits on January 14, 2009. Claimant requested a hearing on February 17, 2009.

CONCLUSIONS OF LAWThe 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

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.

DEPARTMENT POLICY

FIP

A Work Eligible Individual (WEI), see PEM 228, who fails, without good cause, to participate in employment or self-sufficiency-related activities, must be penalized.

See PEM 233B for the Food Assistance Program (FAP) policy when the FIP penalty is closure. For the Refugee Assistance Program (RAP) penalty policy, see PEM 233C. PEM 233A, p. 1.

NONCOMPLIANCE WITH EMPLOYMENT AND/OR SELF-SUFFICIENCY-RELATED ACTIVITIES

As a condition of eligibility, all WEIs and non-WEIs must work or engage in employment and/or self-sufficiency-related activities. Noncompliance of applicants, recipients, or member adds means doing any of the following without good cause:

- . Failing or refusing to:
 - .. Appear and participate with the Jobs, Education and Training (JET) Program or other employment service provider.
 - .. Complete a Family Automated Screening Tool (FAST), as assigned as the first step in the FSSP process.
 - .. Develop a Family Self-Sufficiency Plan (FSSP) or a Personal Responsibility Plan and Family Contract (PRPFC).
 - .. Comply with activities assigned to on the Family Self-Sufficiency Plan (FSSP) or PRPFC.
 - .. Appear for a scheduled appointment or meeting.

- .. Participate in employment and/or self-sufficiency-related activities.
- .. Accept a job referral.
- .. Complete a job application.
- .. Appear for a job interview (see the exception below).
- . Stating orally or in writing a definite intent not to comply with program requirements.
- . Threatening, physically abusing or otherwise behaving disruptively toward anyone conducting or participating in an employment and/or self-sufficiency-related activity.
- . Refusing employment support services if the refusal prevents participation in an employment and/or self-sufficiency-related activity. PEM 233A, pp. 1-2.

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 requirement 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.

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, p. 7.

Claimant initially failed to participate in WF/JET and was seen for a triage on November 13, 2008. Claimant at that time told the caseworker that she was experiencing a problem pregnancy. Departmental policy does address WF/JET deferrals for such issues, as it states:

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.

Department gave the claimant a DHS-54A, Medical Needs form, on November 13, 2008, so that she could verify her high risk pregnancy, in accordance with the quoted policy. Furthermore, if the claimant provided this form (which she did not do), departmental policy also allows for local office discretion deferral if pregnancy complications are expected to last longer than 3 months. PEM, Item 230A, pp. 16-17. Departmental policy is very specific in that it requires verification of a medical condition, as follows:

VERIFICATION SOURCES

Temporary Incapacity

Statement from an M.D./D.O. that the person is unable to work, including diagnosis, limitations on activities and expected duration.

The DHS-54A, Medical Needs; DHS-49, Medical Examination Report; or other written statement is acceptable.

For SSI/RSDI application or denial due to duration, use one of the sources listed above for Care of a Spouse/Child with a Disability. PEM 230A, pp. 23-24.

Claimant failed to provide any such verification, leaving the department no choice but to refer her to WF/JET. When the claimant failed to attend WF/JET, department scheduled a duage to discuss her reasons for not attending, but the claimant did not call or show up for this appointment. Claimant testified that she forgot about the medical information that she was required to provide, and that she now understands what happened to her case. Claimant also testified that she has had her baby 11 weeks early, in March, 2009, that the baby is still in the hospital, and that she is staying at [REDACTED] in order to be able to visit the baby every day. Department's representative will assist the claimant in re-applying for assistance.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department correctly terminated claimant's FIP benefits in January, 2009.

Accordingly, department's action is AFFIRMED, and it is SO ORDERED.

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

Date Signed: March 30, 2009

Date Mailed: April 2, 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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