

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: 2009-15276
Issue No: 1038/3029
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
May 14, 2009
Jackson County DHS

ADMINISTRATIVE LAW JUDGE: Marlene B. Magyar

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, an in-person hearing was held on May 14, 2009. Claimant and her husband personally appeared and testified.

ISSUE

Did the Department of Human Services (department) properly propose to impose non-compliance sanctions on claimant's public assistance benefits (FIP/FAP) for failure to comply with mandatory assignments in October, 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) At all times relevant, claimant was an ongoing FIP/FAP recipient in the [REDACTED]

[REDACTED].

(2) Claimant got married on October 3, 2008, and thus, her new husband was a mandatory member of her ongoing FIP/FAP group.

(3) At all times relevant, both claimant and her husband fell into a classification of individuals required to work or to comply with certain work-related assignments as a condition of benefit continuation.

(4) Claimant's Work First/JET participation history verifies multiple past instances of failure to participate dating back to 2005 (Department Exhibit #3).

(5) On November 6, 2008, the department notified claimant in writing she again was failing to comply because she and her husband were two weeks behind in submitting their mandatory job search logs as of October 27, 2008 (Department Exhibit #1, pg 5).

(6) This notice also advised claimant a mandatory triage meeting would be held on November 13, 2008.

(7) Triage meetings are scheduled so all partners (JET managers, assigned caseworkers and clients) can discuss any alleged barriers to participation which might possibly rise to the good cause level necessary to excuse, reassign, modify or reduce an individual's level of participation in the JET program.

(8) The department provided transportation for claimant and her husband to attend the triage meeting on November 13, 2008, and in fact, they did attend.

(9) The department's case notes of what transpired at that triage meeting state as follows:

[Claimant] showed up for triage today and admitted that she was told that she needed to mail her job search logs in and agreed to do that, she then went on to say that because one of her logs got misplaced before (but was accepted without penalty) that she was told by me that she didn't have to turn them in but could hold on to

them until she could get them in. This conversation never took place.

[Claimant] was told on 10-13-08 in no uncertain terms that her logs were expected in each week, even if they were a few days late I would count them. [Claimant] then went on to say that I told her that I would send [REDACTED] to pick her up and that they never showed up. [REDACTED] did not pick her up because she never asked for [REDACTED] and when [REDACTED] was offered to her on 10-6-08 she declined it at that time and never requested it thereafter. Furthermore, [REDACTED] has an application that has to be filled out before you can even set up a scheduled ride. I would not have known what time or what day to even send them out so for her to say that I told her I would send [REDACTED] for her is a complete story made up by [claimant](Department Exhibit #2, pgs 2 and 3).

(10) The department advised claimant in writing during the triage meeting neither she nor her husband stated any credible barriers to their mandatory participation requirements, and thus, FIP/FAP non-compliance sanctions would be imposed (Department Exhibit #1, pg 1).

(11) Before claimant and her husband left the triage meeting claimant filed hearing request that day (Department Exhibit #1, pg 1).

(12) Claimant's hearing was held on May 14, 2009.

(13) Claimant admitted on the record at hearing the required job search logs were never mailed or personally submitted to the department.

(14) Claimant also indicated the area in which she and her husband reside does not have any open jobs due to its depressed economy; therefore, it is unreasonable to make them complete job search logs.

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).

The Food Assistance Program (FAP) (formerly known as the Food Stamp (FS) program) is established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations (CFR). The Department of Human Services (DHS or department) administers the FAP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3001-3015. Department policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

The department initiated the Jobs, Education and Training (JET) Pilot Program on April 1, 2006. This program replaces the former Work First Program, implemented in 1996 under the welfare reforms initiated by President Clinton through his signing of the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA). This Act established a block grant program to distribute federal taxpayer dollars to state governments to fund state cash assistance programs like Michigan's FIP/FAP programs, and also, required all states to develop and implement mandatory employment-related activities, rules and policies for welfare recipients. States who do not meet the federally-established participation rates suffer federal penalty funding cuts to their cash grant programs.

Under JET rules, a Work Eligible Individual (WEI) is a FIP recipient who counts in the state's federal work participation rate. PEM Item 228, pg 2. As a condition of eligibility, all WEIs and non-WEIs must work or engage in employment and/or self-sufficiency related

activities. Non-compliance is defined in part by policy as failing or refusing to participate with the JET program, failing to comply with assigned activities on the Family Self-Sufficiency Plan (FSSP) or a Personal Responsibility Plan and Family Contract (PRPFC). PEM Item 233A, pgs 1 and 2.

Good cause is a valid reason for non-compliance with employment and/or self-sufficiency related activities based on factors beyond the control of the non-compliant person.

Claimant presented no valid good cause reason for failing to turn in the required job search logs at her triage meeting in November, 2008, or at her contested case hearing on May 14, 2009. Furthermore, claimant's argument regarding the area's economically depressed condition does not constitute good cause for failure to participate as assigned. Many FIP/FAP recipients who live in the same area as claimant and her husband successfully participate in the job search component of JET every day.

Claimant's biggest barriers to participation appear to her historical lack of motivation, in combination with her less than credible rationalizations about why compliance is not possible. The department's policy is clear. A mandatory public assistance recipient who fails to participate in employment or self-sufficiency related activities without good cause must be penalized. As such, the department's proposed FIP/FAP non-compliance penalty was correct and it must be upheld.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the department properly proposed to impose non-compliance sanctions on claimant's FIP/FAP benefits for failure to comply with mandatory assignments in October, 2008.

Accordingly, the department's action is AFFIRMED.

/s/ _____
Marlene B. Magyar
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: July 13, 2009

Date Mailed: July 14, 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 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.

MBM/db

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