

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: 2009-15602
Issue No: 1038; 3028
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
June 16, 2009
Jackson County DHS

ADMINISTRATIVE LAW JUDGE: Carmen G. Fahie

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 Tuesday, June 16, 2009. The claimant personally appeared and testified with her cousin, [REDACTED] as a witness.

ISSUE

Did the department properly terminate the claimant's Family Independence Program (FIP) benefits and reduce the claimant's Food Assistance Program (FAP) benefits due to noncompliance with Work First (WF) employment-related activities?

FINDINGS OF FACT

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

(1) The claimant is a recipient of FIP and FAP benefits, which requires her to participate with WF for forty (40) hours per week.

(2) On February 13, 2009, the department caseworker sent the claimant a Notice of Noncompliance, DHS-2444, for falsified medical documentation where a triage was scheduled on February 24, 2009 at 1:00 p.m. where this was the first or second time a member of your FIP, RAP, and/or FAP group was noncompliant. (Department Exhibit 1)

(3) On February 24, 2009, the claimant attended a triage and did not have a good cause reason for the falsification of the medical documentation. The claimant stated that she understood the sanction that was three months to start on March 1, 2009 and end May 31, 2009. (Department Exhibits 3-4 and 6-8)

(4) On February 24, 2009, the department received a hearing request from the claimant, contesting the department's negative action.

(5) During the hearing, the department caseworker provided the document that the claimant submitted from her rheumatologist's office stating that the claimant was seen on January 27, 2009 for an office visit and that on January 27, 2009 the above-named patient may return to work/school on March 23, 2009 full-time with the following restrictions, which was different from the original doctor's slip that was faxed from the doctor's office that stated that the claimant could return to work on January 27, 2009 and did not list any restrictions. (Department Exhibits 9 and 11)

(6) During the hearing, the claimant stated that she did not falsify the medical document, that she took the original document from the rheumatologist and gave it to her treating physician to finish completing. Subsequently, she received the completed form back from her treating physician and submitted it to her Work First worker. The claimant reiterated that she did not fill out the form and her cousin confirmed that she did not add anything to the form.

(7) During the hearing, this Administrative Law Judge reminded the claimant that no other medical doctor would write on a form completed by another medical doctor, which would be grounds for fraud and loss of license or at least a reprimand. The form belonged to her rheumatologist specialist and her treating physician would not write anything on his form, but would use his own form from his office.

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's manuals provide the following relevant policy statements and instructions for caseworkers:

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.

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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.

DEPARTMENT PHILOSOPHY

DHS requires clients to participate in employment and/or self-sufficiency-related activities and to accept employment as required. There are consequences for a client who refuses to participate in employment and/or self-sufficiency-related activities or refuses to accept employment without good cause.

DEPARTMENT POLICY

The policies in this item are for all Food Assistance Program (FAP) applicants and recipients. Noncompliance with

employment requirements for FIP (see PEM 233A) affect FAP if both programs were active on the date of the noncompliance. PEM 233B, p. 1.

When to Disqualify

- . Disqualify a FAP group member for noncompliance when:
- . The client was active both FIP and FAP on the date of the FIP noncompliance, and
- . The client did not comply with FIP employment requirements, and
- . The client is not deferred from FAP work requirements (see DEFERRALS in PEM 230B), and the client did not have good cause for the noncompliance. PEM 233B, p. 1.

In this case, the claimant is a recipient of FIP and FAP. She is a mandatory participant in Work First and is required to work or look for work for twenty (20) hours per week. Although, the claimant testified that she did not add any information to the medical form submitted by her rheumatologist specialist, the form was materially altered in that it had a return to work/school on March 23, 2009 at full-time with the following restrictions that was different from the original form that stated that the claimant could go back to work on January 27, 2009 and did not list any restrictions.

During the hearing, the claimant stated that she took the uncompleted form from her rheumatologist specialist to her treating physician to finish filling out. This Administrative Law Judge reminded the claimant that no other physician would add any documentation to another doctor's form. The doctor would use his own form from his own office and not complete a form from another doctor's office. Although the claimant stated that she did not change the medical form from that she received from her rheumatologist specialist, the form was materially changed in the

claimant's favor in that it excused her from Work First for two months from January 27, 2009 until March 23, 2009. The form was in the claimant's possession and as a result any changes made to the form that varied from the original form submitted by the treating rheumatologist specialist were the responsibility of the claimant. The claimant submitted the form as accurate and truthful, but the form had been changed from the original rheumatologist specialist medical recommendation.

The Administrative Law Judge finds that the claimant was in noncompliance with WF when she submitted a form that had been changed that no longer represented the original form that was submitted by the claimant's rheumatologist specialist. The department has established that the claimant's FIP benefits should be cancelled and the claimant's FAP benefits should be decreased to reflect removing her as a part of the household composition for three months.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the claimant failed to establish a good cause reason for the falsified medical documentation submitted to excuse her from WF activities.

Accordingly, the department's decision is **AFFIRMED**.

/s/ _____
Carmen G. Fahie
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: July 7, 2009

Date Mailed: July 7, 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.

CGF/vmc

cc:

