

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: 2009-16419
Issue No: 1038
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
April 22, 2009
Wayne 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 22, 2009. Claimant personally appeared and testified.

ISSUE

Did the department correctly terminate claimant's Family Independence Program (FIP) benefits in November, 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) Claimant applied for FIP benefits on August 8, 2008 and stated that she lives with her grandfather, her children, and her children's father. (Department's Exhibit X, pages 20-28).

(2) On August 19, 2008 department mailed the claimant a Work First/Jobs, Education and Training (WF/JET) Appointment Notice telling her she must report to a WF/JET site on August 25, 2008. (Department's Exhibit II, p. 12).

(3) On September 4, 2008 department also sent a WF/JET Appointment Notice to the father of claimant's children, [REDACTED], stating that he must report to WF/JET site on September 8, 2008. (Department's Exhibit III, p. 13).

(4) [REDACTED] did not report for WF/JET orientation. (Department's Exhibit IV, p. 14). Department mailed the claimant a Notice of Employment and/or Self-Sufficiency Related Noncompliance scheduling a duage for [REDACTED] for November 24, 2008, to discuss his reasons for WF/JET noncompliance. (Department's Exhibit VI, p. 16).

(5) [REDACTED] did not show up for the duage and no good cause was found for his WF/JET noncompliance. (Department's Exhibit VII, p. 17).

(6) Department terminated claimant's FIP benefits on November 26, 2008, after sending her a computer notice 12 days prior to this date that her FIP case will close. (Department's Exhibit V, p. 15).

(7) Claimant submitted a Semi-Annual Contact Report in December, 2008 stating that [REDACTED] was no longer living with her. (Department's Exhibit VIII, p. 18). Claimant also called the Change Reporting Center on December 17, 2008 to request that [REDACTED] be removed from her case. (Department's Exhibit IX, p. 19).

(8) Claimant requested a hearing on March 3, 2009 stating she was now homeless.

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

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.

Claimant was living with her children and the father of the children, and they were a FIP group. Claimant and [REDACTED] were also mandatory WF/JET participants and required to report to WF/JET sites. [REDACTED] failed to do so, and also failed to show up for the duage to discuss his reasons for not doing so. Departmental policy calls for the following penalties for WF/JET noncompliance:

NONCOMPLIANCE PENALTIES FOR ACTIVIE FIP CASES AND MEMBER ADDS

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 3 calendar months unless the client is excused from the noncompliance as noted in “First Case Noncompliance Without Loss of Benefits” below.
- . For the second occurrence on the FIP case, close the FIP for 3 calendar months.
- . For the third and subsequent occurrence on the FIP case, close the FIP for 12 calendar months.
- . The penalty counter also begins April 1, 2007 regardless of the previous number of noncompliance penalties.

Claimant states that she did not know that [REDACTED] failed to attend WF/JET, as he lied to her and told her he did. Claimant also states that [REDACTED] “got locked up”, but is not sure when and thinks it was sometimes in November, 2008. Neither of these reasons are sufficient to conclude that the department incorrectly closed claimant’s FIP benefits, as it is the claimant’s responsibility to report all changes to the department within 10 days of such change, and she did not report [REDACTED] being out of her home until December, 2008, when her FIP

benefits were already closed. In addition, claimant's caseworker would not have any knowledge of her personal situation and whether [REDACTED] is lying to the claimant or not. Noncompliance letter for [REDACTED] was mailed to the claimant under her name and address on November 17, 2008, so she had the opportunity to review it and contact the department at that time, but failed to do so. Claimant also states she is homeless. Claimant stated in August, 2008 that she was living with her grandfather, did not report any change in her residence, and received notice of this hearing dated March 27, 2009, at her grandfather's address. A conclusion that the claimant was homeless during the period of time that applies to the hearing issue cannot therefore be reached.

Claimant was advised to re-apply for FIP as her sanction period has now ended.

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 November, 2008.

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: April 28, 2009

Date Mailed: April 30, 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.

IR/db

cc:

