

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: 2009-16426

Issue No: 1038

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

April 22, 2009

Calhoun County DHS

ADMINISTRATIVE LAW JUDGE: Steven M. Brown

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 conducted from [REDACTED] on April 22, 2009.

ISSUE

Did the Department correctly take action to terminate Claimant's Family Independence Program (FIP) benefits and her Food Assistance Program (FAP) benefits?

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 recipient of FIP and FAP benefits and was a mandatory Work First/Jobs, Employment and Training (WF/JET) participant.

(2) On February 5, 2009, the Department was informed by WF/JET that Claimant was not meeting the required amount of job search hours and was, therefore, in noncompliance with WF/JET requirements. (Exhibit 2)

(3) On February 6, 2009, the Department sent Claimant a Notice of Noncompliance which stated that its “records showed that Claimant had refused or failed to participate as required in employment and/or self sufficiency related activities....” and that “A meeting has been scheduled to give you an opportunity to report and verify your reasons for non-compliance.” The triage meeting was scheduled for February 17, 2009 at 3:00 p.m. (Exhibit 3)

(4) Claimant failed to attend the February 17th triage meeting. On February 18, 2009, Claimant contacted the Department and informed it that she did not attend the triage meeting because she was in jail at the time. The Department asked Claimant during the February 18th telephone call if she had good cause for not doing the required amount of job search hours – 30 per week. Claimant responded that she was attending school and those hours along with her job search should have been enough hours. (Exhibit 1)

(5) The Department records indicate that Claimant was credited 30 hours the week of November 23rd, 9 hours the week of November 30th, 14 hours the week of December 7th, 0 hours the week of December 14th, 15 hours the week of December 21st, 10 hours the week of December 28th (2008), 0 hours the week of January 4th, 12 hours the week of January 11th, 10 hours the week of January 18th and 6 hours the week of January 25th (2009). (Exhibits 4-13)

(6) Claimant testified that she did not agree with the Department’s calculation of her weekly job search hours and that she was not informed that there was a problem until she was scheduled for a triage meeting. She also testified that she began school on January 20, 2009,

turned in her school schedule to the Department on or about January 27, 2009 and has been regularly attending classes since that time.

(7) The Department found no good cause for Claimant's noncompliance with WF/JET and took action to terminate claimant's FIP and FAP benefits.

(8) Claimant requested a hearing on February 27, 2009. The Department restored Claimant's FAP benefits pending hearing, but did not reinstate Claimant's FIP benefits because her only eligible child left the home. Claimant testified at hearing that her daughter is still in her home.

(9) The Department faxed the undersigned two documents at the conclusion of the hearing - Work First Requirements and [REDACTED]. The Department testified that the documents were given to and signed by Claimant at orientation and explain what was required of Claimant in terms of her job search hours and how they would be calculated. (Exhibits 14 and 15)

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, 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”), formally known as the Family Independence Agency, administers the FAP program pursuant to MCL 400.10, *et seq* and MAC R 400.3001-3015. Departmental 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, RAP Cash

Clients must be made aware that public assistance is limited to 48 months to meet their family’s needs and that they must take personal responsibility to achieve self-sufficiency. This message, along with information on ways to achieve independence, direct support services, non-compliance penalties, and good cause reasons, is initially shared by DHS when the client applies for cash assistance. Jobs, Education and Training (JET) program requirements, education and training opportunities, and assessments will be covered by the JET case manager when a mandatory JET participant is referred at application. PEM 229, p. 1.

DEPARTMENT POLICY

FIP, RAP Cash

All Family Independence Program (FIP) and Refugee Assistance Program (RAP) eligible adults and 16- and 17-year-olds **not** in high school full-time must be referred to the Jobs, Education and Training (JET) Program or other employment service provider, unless deferred or engaged in activities that meet participation requirements. These clients must participate in employment and/or self-sufficiency-related activities to increase their employability and to find employment. Apply FIP policy to RAP cash clients unless a separate RAP cash policy is mentioned.

JET is a program administered by the Michigan Department of Labor and Economic Growth (DLEG), Michigan Works System. The individual sites where clients report are the Michigan Works! Agency’s (MWA’s). The JET program serves employers and job

seekers to ensure that employers have skilled workers and workers have good jobs that provide economic self-sufficiency.

A cash recipient who refuses, without good cause, to participate in assigned employment and/or self-sufficiency-related activities is subject to penalties. PEM 230A, p. 1.

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.

NONCOMPLIANCE PENALTIES FOR ACTIVE 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. PEM, Item 233A.

DEPARTMENT POLICY

The policies in this item apply to all FAP applicants and recipients Age16 and over. Noncompliance, without good cause, with employment requirements for FIP/RAP ([see PEM 233A](#)) may affect FAP if both programs were active on the date of the FIP noncompliance. PEM 233b

When To Disqualify

Disqualify a FAP group member for noncompliance when all the following exist:

- The client was active both FIP and FAP on the date of the FIP noncompliance, and
- The client did not comply with FIP/RAP employment requirements, and
- The client is subject to a penalty on the FIP/RAP program, 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.

See [MEMBER DISQUALIFICATION](#) later in this item.

Budgeting “Last FIP/EFIP”

Budget the Last FIP grant amount on the FAP budget for the number of months that corresponds with the FIP penalty (either three months for the first two noncompliances or 12 months for the third and subsequent noncompliances) after the FIP case closes for employment and/or self sufficiency-related noncompliance. The Last FIP grant amount is the grant amount the client received immediately before the FIP case closed.

Budget the Last FIP for three or 12 months whether or not the noncompliant person is disqualified from FAP. If a FIP penalty is imposed; you must budget the Last FIP grant amount. Budget the Last FIP amount only when the client was receiving FAP on the date of the FIP noncompliance. If the client was only applying for FIP and violated a FIP employment and/or self-sufficiency-related requirement, the FAP grant would not be affected.

Note: If a noncompliant person leaves the home, the Last FIP remains budgeted for the duration of the FIP penalty.

Post a follow-up to remove the Last FIP grant from the FAP budget during the last penalty month applied on FIP. PEM 233b

Claimant was given significant information at orientation regarding her job search requirements. She clearly did not meet the required number of hours during multiple weeks. If Claimant had any questions or concerns about how her hours were going to be calculated by the Department, which she should have judging by the low number of hours credited to her most weeks, she could and should have checked with the Department prior to receiving a noncompliance notice. Claimant's school hours obviously did not have any relevance for the weeks of November 30, 2008 through January 11, 2009 given that her classes did not begin until January 20, 2009. She had already been in noncompliance for 7 weeks by that point.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department acted in accordance with policy in terminating Claimants' FIP and FAP benefits.

Accordingly, the Department's FIP and FAP eligibility determination is AFFIRMED.

/s/

Steven M. Brown
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: April 29, 2009

Date Mailed: April 29, 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.

SMB/db

cc:

