

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: 2009-16430

Issue No: 1038

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

April 22, 2009

Genesee 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 take action to terminate claimant's Family Independence Program (FIP) benefits in March, 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 did not report to Work First (WF) GCCARD site on January 21, 2009. (Department's Exhibit 1).

(2) On February 11, 2009 department mailed the claimant a Notice of Noncompliance scheduling a triage for February 17, 2009 to discuss her reasons for failure to report to WF site. (Department's Exhibit 2).

(3) Claimant did not show for the triage appointment. On February 18, 2009 department mailed the claimant a notice telling her that her FIP benefits will be cancelled on March 3, 2009. Claimant requested a hearing on February 23, 2009 stating that her Protective Services (PS) Worker told her she e-mailed her FIP caseworker and requested a deferral from WF.

(4) Department deleted FIP negative action pending the outcome of this hearing. On February 24, 2009 claimant's FIP caseworker e-mailed PS worker telling her she does not see any need for a WF deferral at this time. PS worker responded that she agreed with caseworker's decision and that she had actually closed claimant's PS case over the weekend since she completed all services. (Department's Exhibit 3).

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).

Claimant testified that she was never told or notified that she was to report to WF on January 21, 2009. Department's representative at the hearing states that this is indeed true, as

there appeared to be some type of a problem with mailing of notifications to the clients telling them they must go to a different WF provider, in this case GCCARD. As the claimant was never notified she had to go to WF, she cannot be held responsible for not reporting there, and this is the first problematic issue for the department's action on her case.

Secondly, claimant states that she had an active PS case and it is apparent from the February 24, 2009 e-mail from the PS worker to claimant's caseworker that this was true. PS case was active until one or two days prior to the sending of the e-mail. Departmental policy pertaining to employment-related activities and possible deferrals from such activities states:

SPECIAL NEEDS PARTICIPANTS

Determine appropriate participation and types of supports for the following groups for all types of special needs participants, see Reasonable Accommodation earlier in this item. PEM 230A, p. 19.

Children's Services Cases

Recipients whose only child(ren) are either temporarily placed outside the home by Children's Protective Services (CPS) or have an active CPS/Foster Care (FC) case, have a work requirement, unless the treatment plan is so intensive it interferes with the client's ability to work. Discuss with the CPS/FC worker the extent of the client's ability to perform employment or self-sufficiency-related activities.

If the client is able to perform work-related activities, refer the client to JET. Determine the appropriate number of hours of participation based on the case circumstances and recommendations from the CPS/FC worker. This will avoid any disruption in their activities when the children are returned home or while working with the service plan. PEM 230A, p. 20.

No information has been provided to establish that claimant's caseworker discussed with the CPS worker the extent of claimant's ability to perform employment or self-sufficiency-related activities. Only documentation of a contact with claimant's CPS worker is the e-mail

from February 24, 2009, a month after the claimant allegedly did not attend WF appointment she never received a notice of, and after her CPS case was closed. Claimant states that she tried to call her caseworker prior to the triage appointment to ask her if she had to attend it, since she was allegedly told by the CPS worker she would work out a WF deferral for her couple of months before. Claimant further states that her caseworker never returned her telephone calls.

Claimant's caseworker is not available for the hearing to comment either on her interactions with the CPS worker as required by policy, or claimant's attempts to call her prior to the triage meeting. This Administrative Law Judge concludes that the evidence presented, when combined with the lack of information and/or testimony from the claimant's caseworker regarding the issues claimant testified to at the hearing, does not establish that the department acted in accordance with policy when it took action to terminate claimant's FIP benefits.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department incorrectly took action to terminate claimant's FIP benefits in March, 2009.

Accordingly, department's action is REVERSED. Department shall:

- (1) Continue claimant's FIP benefits.
- (2) Determine claimant's employment-related activity participation status and refer her to WF if she does not qualify for a deferment at this time, in accordance with PEM 230A and 233A.

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:  (2)