

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: 2009-16911
Issue No: 1038
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
April 28, 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 28, 2009. Claimant, her husband and her mother personally appeared and testified.

ISSUE

Did the department correctly 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 and her husband were FIP recipients when a Work First/Jobs, Education and Training Appointment Notice was mailed to them stating that the husband must attend Work First/Jobs, Education and Training (WF/JET) appointment on November 3, 2008. (Department's Exhibit 1).

(2) Claimant's husband attended WF/JET orientation on November 3, 2008.

(Department's Exhibit 2).

(3) WF/JET Update/View Case Notes of November 7, 2008 state that claimant's husband completed the orientation process and finished the week of 11/03/08 with 24 hours.

(Department's Exhibit 3).

(4) These Notes further have an entry dated November 21, 2008 that states "Participant has failed to meet the minimum participation requirements for our program. Participant has been absent since 11/05/08 without reasonable cause. Last date of attendance was 11/05/08. Attendance notices were mailed and a triage will be requested".

(5) On March 2, 2009 department mailed the claimant's husband a Notice of Noncompliance scheduling a triage meeting for March 6, 2009 to discuss his reasons for WF/JET noncompliance. This notice states that claimant's husband "refused to continue to participate" as of 11/05/08. (Department's Exhibit 4).

(6) Claimant's husband was a no call/no show for the triage meeting. Department concluded there was no good cause for his non-participation with the WF/JET program, and that a 90 day sanction will apply to claimant's FIP case. (Department's Exhibit 5).

(7) Claimant requested a hearing on March 12, 2009 stating that her husband had a "missed appointment that could not be rescheduled" due to a "medical sickness". Claimant's FIP benefits terminated on March 18, 2009.

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's husband was a mandatory WF/JET participant and did report to WF/JET from November 3 through November 5, 2008, according to detailed notes from WF/JET staff.

According to these note, claimant's husband was then absent since November 5, 2008 without reasonable cause, action which resulted in the triage meeting scheduled for March 6, 2009.

Claimant and her husband state that he attended WF/JET until November 19, 2008, using this date as it shows as "Last Date to Attend Orientation", on a Welfare Registration Participant History form (see Department's Exhibit 2). This date however does not indicate that the claimant's husband attended up to then, but it is a deadline by which he had to report to WF/JET and attend orientation.

Claimant further testified that her husband had and has medical problems and that documentation of such problems was provided to WF/JET. There is no mention in WF/JET case notes of any report of medical problems for claimant's husband, and as already stated, these notes are detailed and persuasive. Even if the claimant and/or her husband indicated to WF/JET that he cannot participate in employment-related activities, WF/JET would refer them back to their DHS caseworker to explore possible WF/JET deferral, something only DHS can process and approve. PEM 230A. However, the most convincing fact that the claimant and/or her husband did not provide extensive medical documentation to WF/JET as they testified is the fact they could only show one form to the DHS representative during the hearing, that for a November 13, 2008 radiology exam report. This form does not provide good cause for lack of WF/JET attendance since November 5, 2008 and for the following 3 months before FIP benefits closed.

Claimant's husband also states that he was waiting for a call from WF/JET to tell him to report there. Why the husband would expect such a telephone call after he had already attended WF/JET orientation and been made aware of the WF/JET rules is not known, and is also not acceptable as good cause for WF/JET noncompliance.

Claimant explained that the mail regarding the triage appointment was received the same day of the appointment and this is why she and her husband could not make the triage. Claimant then states she was receiving her mail at her mother's address temporarily, it was forwarded there and therefore delayed. Address change was not reported to the department so there was no error on part of the department in sending claimant's mail to the address she gave them.

After considering all of the reasons claimant, her husband and her mother provided to WF/JET noncompliance, this Administrative Law Judge finds that the department properly concluded that claimant's husband had no good cause for WF/JET noncompliance.

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 March, 2009.

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 29, 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.

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