

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: 2009-17297
Issue No: 1038
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
April 29, 2009
Oakland 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 29, 2009. Claimant personally appeared and testified. In addition to departmental staff, a Training Specialist from [REDACTED], JET Program, also appeared and testified.

ISSUE

Did the department correctly terminate claimant's Family Independence Program (FIP) benefits in December, 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 was a FIP recipient and a mandatory Work First/Jobs, Education and Training (WF/JET) participant.

(2) According to WF/JET Update/View Case Notes completed by WF/JET staff, as of October 8, 2008 claimant was spending most of his time “networking”, and staff talked to him about more actual job applications. (Department’s Exhibit 5).

(3) On October 31, 2008 WF/JET staff held a progress meeting with the claimant to discuss Job Search tactics. Claimant continued to “network” despite suggestion that he focus more on a survival job than one in his specific field (green energy consultant). Also discussed was appropriate documentation for off site job search.

(4) On November 20, 2008 notation from WF/JET staff it is stated that the claimant handed in off-site sheets late for the past three weeks even though he has been spoken to numerous times about getting them in on time. Claimant states he will do so, then does not follow through, and WF/JET staff is requesting a triage.

(5) On November 24, 2008 department mailed the claimant a Notice of Noncompliance telling him that he failed to meet JET participation requirements, and scheduling a triage meeting for December 2, 2008 to discuss his reasons for not doing so. (Department’s Exhibit 2).

(6) Claimant participated in the triage meeting from the WF/JET site along with his WF/JET Training Specialist. No good cause was found for claimant’s WF/JET noncompliance. Claimant signed a First Noncompliance Letter agreeing to do Job Search starting on December 3, 2008, for 30 hours total. (Department’s Exhibit 3).

(7) Claimant also signed an additional form, JET Triage Personal Contact, which listed in detail what he was required to do in order to continue to receive FIP benefits. (Department’s Exhibit 4).

(8) This form stated that the claimant must attend Job Search activities a minimum of 30 hours per week, provide appropriate documentation for off-site Job Search activities to include e-mail verifications and/or job postings for interviews, fill in completely off-site attendance sheets in order to receive credit, provide Form 630 every Monday for medical appointments from the previous week to include letters from medical providers stating ongoing medical treatment, and to also include documentation for any other medical appointments.

(9) Claimant failed to complete required activities and his FIP case closed on December 9, 2008. Claimant requested a hearing on March 2, 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 does not dispute that he did not comply with activities set for him by WF/JET. Claimant's entire hearing testimony is about the value of his "networking" with different organizations in order to eventually obtain a job in the "green" energy field. Claimant states he is an independent contractor, he has been working on green energy opportunities, and his deals were about to close, in which case he could receive [REDACTED]. Claimant however states that he has not received any type of a pay check for the last year.

In order for a client to have good cause not to participate in the WF/JET program due to employment activities, they must be employed at least 40 hours per week on average and earning at least state minimum wage. PEM 233A. Claimant is well aware that his "networking" is not an acceptable WF/JET activity, as it is apparent from previous WF/JET case notes that he was told this in the past, and has also been spoken to numerous times about turning in job search sheets on time. Claimant continued to pursue his business ventures rather than employment. Claimant can certainly engage in any activity he chooses, however he must comply with WF/JET

requirements if he wishes to receive FIP benefits. Claimant has re-applied for FIP now but asked towards the end of the hearing if he could be excused on May 11, 2009 from WF/JET participation so he could go to a conference about green energy. JET representative stated that the claimant would not be excused for such activity, and the claimant was made aware that his failure to comply with WF/JET while his application is pending could result in denial of his FIP application.

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 December, 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 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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