

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: 2009-17371

Issue No: 1038

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

May 5, 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 May 5, 2009. Claimant 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 was a FIP recipient when the department mailed her a Notice of Employment and/or Self-Sufficiency Related Appointment/Assignment or Home Call, DHS-2442, on January 9, 2009 telling her she must resume JET participation as 90 day newborn

medical deferral was over, and she must return to Work First within 10 days. (Department's Exhibit 9).

(2) Claimant did not report to Work First as of January 30, 2009. (Department's Exhibit 8). On February 27, 2009 department mailed the claimant a Notice of Noncompliance scheduling a triage appointment for March 2, 2009 to discuss her reasons for not returning to Work First. (Department's Exhibit 6).

(3) Claimant showed up for the triage and stated that she was deferred from Work First due to drug treatment program she was attending once per week for 2 hours. Department had no record of a deferral or a request for a deferral, and according to claimant's previous caseworker Children Protective Service (CPS) did not request a deferral for the claimant for drug treatment. No good cause for failure to attend Work First was found.

(4) Department terminated claimant's FIP benefits on March 14, 2009. Claimant requested a hearing on March 23, 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.

Claimant was a mandatory WF/JET participant after being deferred from participation in this program due to having a baby. Departmental policy allows for such deferral of one parent of a child under the age of 3 months when the newborn is in the home. PEM 230A. However, when claimant's baby turned 3 months of age, she was once again required to participate in the WF/JET program, and was sent a notice on January 9, 2009 advising her of this requirement. Claimant did not report to WF/JET as she claims she assumed that 2 hours per week of drug counseling would exempt her from participation in the program. Claimant further testified that her CPS worker deferred from Work First/JET due to drug counseling. Department does not have any record of such deferral and CPS advised claimant's caseworker that no such deferral

was given. This Administrative Law Judge finds it highly unlikely that the claimant would be deferred from WF/JET participation because of going to drug counseling for 2 hours per week. Furthermore, claimant was asked why she did not contact her caseworker or WF/JET after she received the January 9, 2009 notice telling her she was to report for this program. Claimant responds that she did contact her caseworker sometimes at the end of January, 2009 or beginning of February, 2009, but cannot explain why she waited that long to do so. Claimant concludes her testimony saying that this was just “miscommunication” between her and the department.

This Administrative Law Judge concludes that the claimant was indeed not deferred from participation in WF/JET, and that even if she was under the mistaken impression that 2 hours per week of drug counseling would somehow defer her from such participation, she failed to contact the department to clarify her WF/JET obligation even though she was given ample time to do so. Department therefore properly concluded that the claimant failed to participate in employment-related activities as she was required to do.

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: May 6, 2009

Date Mailed: May 7, 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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