

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. 2009-17790
Issue No. 1038
Case No. [REDACTED]
Load No. [REDACTED]
Hearing Date:
May 13, 2009
Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Rhonda P. Craig

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9; MCL 400.37 upon claimant's request for a hearing. After due notice, an in-person hearing was held on May 13, 2009 and claimant appeared and testified.

ISSUE

1. Is the department correct in closing claimant's FIP case due to noncompliance with employment-related activities?
2. Did the department correctly omit claimant's shelter obligation in the budget for her FAP grant?

FINDINGS OF FACT

- (1) Claimant was an FIP recipient.
- (2) As a FIP recipient, claimant was required to participate in employment-related activities.

- (3) To fulfill this requirement, claimant was assigned to the Jobs, Education and Training (JET) program.
- (4) Claimant attended the JET program as assigned.
- (5) On January 9, 2009, claimant was terminated from the JET program. The JET contractor indicated that the reason for the termination was “failure to attend”.
- (6) On February 10, 2009, the department closed claimant’s FIP case due to noncompliance with employment related activities.
- (7) Claimant is a FAP recipient and receives approximately \$242.00 in FAP benefits per month.
- (8) In March 2009, the department began to budget claimant’s FAP grant without a shelter expense.
- (9) As a result, claimant’s FAP grant was reduced.
- (10) Claimant requested a hearing contesting the closure of the FIP case and the budgeting of the FAP grant.

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 (formerly known as the Family Independence Agency) 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 Family Independence Program (FIP) and Refugee Assistance Program (RAP) provides temporary cash assistance to support a family's movement to self-sufficiency. The recipients of FIP and RAP engage in employment and self-sufficiency-related activities so they can become self-supporting.

Federal and State laws require each work eligible individual (WEI) in the FIP and RAP group to participate in the Jobs, Education and Training (JET) Program or other employment-related activities unless temporarily 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 obtain stable employment.

JET is a program administered by the Michigan Department of Labor and Economic Growth (DLEG) through the Michigan Works Agencies (MWAs). The JET program serves employers and job seekers for employers to have skilled workers and job seekers to obtain jobs that provide economic self-sufficiency.

A WEI who refuses, without good cause, to participate in assigned employment and/or other self-sufficiency-related activities is subject to penalties. PEM Manual Item 230(a), PEM Manual Item 230(b). DHS requires clients to participate in employment and self-sufficiency-related activities and to accept employment when offered. The 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 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).

FIS must have scheduled a FSSP completion appointment with the client and the client failed to attend before considering a client noncompliant for FSSP noncompletion.

Comply with activities assigned on the Family Self Sufficiency Plan (FSSP).

Provide legitimate documentation of work participation.

Appear for a scheduled appointment or meeting related to assigned activities.

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 Manual Item 230(a).

A mandatory participant in the JET program who fails without good cause to participate in employment activity must be penalized. PEM Manual Item 233(a). The penalty for the first occurrence of noncompliance in the JET program is a closure for a minimum of three calendar months under the FIP program. PEM Manual Item 233(a).

In the present case, this administrative law judge cannot find that the claimant was in noncompliance with employment related activities. Claimant presented evidence at the hearing showing that she attended the JET program as assigned. The department was unable to provide documentation from the JET contractor regarding claimant's attendance at JET. There was no evidence presented regarding the dates claimant failed to attend JET. Further, there was no evidence presented regarding any other reason for termination from the JET program. Absent this evidence, I must find that the department erred in closing claimant's case for noncompliance with employment-related activities. Claimant's FIP case should be reinstated and claimant should be provided with all benefits lost as a result of the closure.

The Food Assistance Program (FAP) (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 (formerly known as the Family Independence Agency) administers the FAP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3001-3015. Department policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

In determining a FAP grant amount, the department includes a client's shelter/housing obligation when budgeting. The department allows a shelter expense when the FAP group has a shelter expense or contributes to the shelter expense. Late fees and/or penalties incurred for

shelter expenses are not an allowable expense. Housing expenses include rent, mortgage, a second mortgage, home equity loan, required condo or maintenance fees, lot rental or other payments including interest leading to ownership of the shelter occupied by the FAP group. The department is to verify shelter expenses at application and when a change is reported. If the client fails to verify a reported change in shelter, the department removes the old expense until the new expense is verified. PEM 554 pp. 9-10.

In this case, the department argues that they received information in December 2008, via the FAP Change Reporting Center, that claimant had a new address. Claimant was then required to provide verification of the new shelter expense. The verification was not provided and the department failed to include the shelter expense in the budgeting the FAP grant effective March 2009 as per policy cited above. This resulted in a reduced FAP grant amount. However, at the hearing claimant testified that she has not moved and that she did not report a change in address. She, therefore, argues that the department should have continued to budget claimant's shelter expense as before. This administrative law judge agrees. Evidence presented at the hearing indicated that the Change Reporting Center received the information in question as a result of a telephone call. There was no information presented which demonstrated that the Change center was able to verify the identity of the caller. Absent evidence that claimant made the call, and thereby notify the department of a change, the department should not have removed the shelter expense from the budget due to claimant's failure to provide the verification. I must find that the department erred in failing to include a shelter expense in the FAP grant.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law finds that the department was in error in closing claimant's FIP case and in budgeting claimant's FAP.

And it is ORDERED that the department's decision in this regard be and is hereby OVERRULED.

IT IS FURTHER ORDERED that the department reinstate claimant's FIP and provide all benefits lost as a result of the closure, if she is otherwise eligible.

IT IS FURTHER ORDERED that the department recalculate the FAP budget retroactive to March 2009 with a shelter expense and provide any supplement due in accordance with this decision if she is otherwise eligible.

/s/ _____
Rhonda P. Craig
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 05/20/09

Date Mailed: 05/26/09

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 mailing 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.

RC/dj

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