

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: 2009-19058
Issue No: 1038
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
May 19, 2009
Genesee County DHS

ADMINISTRATIVE LAW JUDGE: Steven M. Brown

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 hearing. After due notice, a telephone hearing was conducted from [REDACTED] on May 19, 2009.

ISSUE

Whether the Department properly terminated Claimant's Family Independence Program (FIP) benefits?

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 recipient of FIP benefits and a mandatory Work First/Jobs, Employment and Training (WF/JET) participant.
- (2) On March 12, 2009, the Department was informed by WF/JET that Claimant was in noncompliance with WF/JET requirements. (Exhibit 4)

(3) On March 12, 2009, the Department sent Claimant a Notice of Noncompliance which stated in pertinent part - "Records show that you have refused or failed to participate as required in employment and/or self sufficiency related activities for FIP, RAP and FAP as noted below: 3/11/09 Attendance at JET/ [REDACTED] There is a significant lag time." "A meeting has been scheduled to give you an opportunity to report and verify your reasons for non-compliance. If you want to have a telephone meeting, please call to schedule it before you miss your scheduled appointment.....It is your responsibility to report and verify reasons for your actions. This is your opportunity to claim barriers that make it hard for you to work. If you do not contact me before the appointment date, I will make a good cause decision for you using the information available to me." (Exhibit 2)

(4) Claimant was in cosmetology school. The school lost its funding so she was told she would have to pay to continue. She could not do so, but requested that the school release her attendance records for the months of December 2008 and January 2009 and write a letter to DHS regarding the reason that her schooling was terminated in February 2009. Claimant's teacher informed her that she would release the records if Claimant either paid the tuition or she received a request from DHS. The Department was aware of the situation with the school/teacher, but was not specifically requested to do anything.

(5) The triage meeting was scheduled for March 23, 2009 at 9:00 a.m. Claimant failed to attend the triage meeting because she wrote it down wrong on her calendar - writing it down as March 26th. The Department found no good cause for Claimant's noncompliance with WF/JET and terminated her FIP benefits. (Exhibit 1)

(6) On April 2, 2009, the Department received Claimant's hearing request protesting the termination of her FIP benefits.

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).

Department policy states that clients must be made aware that public assistance is limited to 48 months to meet their family's needs and that they must take personal responsibility to achieve self-sufficiency. This message, along with information on ways to achieve independence, direct support services, non-compliance penalties, and good cause reasons, is initially shared by DHS when the client applies for cash assistance. Jobs, Education and Training (JET) program requirements, education and training opportunities, and assessments will be covered by the JET case manager when a mandatory JET participant is referred at application. PEM 229, p. 1.

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 self-sufficiency-related activities is subject to penalties. PEM 230A, p. 1.

The Department is required to send a DHS-2444, Notice of Employment and/or Self-Sufficiency Related Noncompliance within three days after learning of the noncompliance which must include the date of noncompliance, the reason the client was determined to be noncompliant, the penalty that will be imposed and the triage date within the negative action period. PEM 233A, p. 9

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).
 - .. 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 233A, pp. 1-2.

Good cause is a valid reason for noncompliance with employment and/or self-sufficiency-related activities that are based on factors that are beyond the control of the noncompliant person. A claim of good cause must be verified and documented for member adds and recipients. If it is determined at triage that the client has good cause, and good cause issues have been resolved, the client should be sent back to JET. Good cause includes working 40 hours per week, being physically or mentally unfit, being ill or injured, the Department failing to make a reasonable accommodation, having no child care, having no transportation, the employment involves illegal activity, discrimination, an unplanned event or accepting comparable work. PEM 233A, p. 4

Clients can either attend a meeting or participate in a conference call if attendance at the triage meeting is not possible. If a client calls to reschedule an already scheduled triage meeting, a phone conference should be offered at that time. Clients must comply with triage requirements within the negative action period. PEM 233A, p. 8 Good cause should be determined based on

the best information available during the triage and prior to the negative action date. Good cause may be verified by information already on file with DHS or MWA. Good cause must be considered even if the client does not attend, with particular attention to possible disabilities (including disabilities that have not been diagnosed or identified by the client) and unmet needs for accommodation. PEM 233A, p. 9

The penalty for noncompliance without good cause is FIP closure. Effective April 1, 2007, the following minimum penalties apply:

- . For the first occurrence on the FIP case, close the FIP for not less than 3 calendar months unless the client is excused from the noncompliance as noted in “First Case Noncompliance Without Loss of Benefits” below.
- . For the second occurrence on the FIP case, close the FIP for not less than 3 calendar months.
- . For the third and subsequent occurrence on the FIP case, close the FIP for not less than 12 calendar months.
- . The penalty counter also begins April 1, 2007 regardless of the previous number of noncompliance penalties. PEM, Item 233A.

In the instant case, Claimant was attending cosmetology school. She was required to provide verification of her attendance and the reason her schooling was terminated. Claimant attempted to get the required verification, but her teacher reportedly would not provide it to her. She had informed the Department, but failed to attend the triage meeting on this issue. The Department made a good cause determination based on the information available to it. With the above said, I find that the Department acted in accordance with policy in finding no good cause and terminating Claimant’s FIP benefits.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department acted in accordance with policy in finding no good cause and terminating Claimant's FIP benefits.

Accordingly, the Department's FIP eligibility determination is AFFIRMED, it is SO ORDERED.

/s/ _____
Steven M. Brown
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: May 20, 2009

Date Mailed: May 26, 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.

SMB/db

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