

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: 2009-19360

Issue No: 1038

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

May 27, 2009

Bay 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 27, 2009. Claimant personally appeared and testified.

ISSUES

1. Did the department correctly terminate claimant's Family Independence Program (FIP) benefits and sanction his Food Assistance Program (FAP) benefits in March, 2009?
2. Did the department correctly determine that claimant was subject to a one year sanction of his FIP benefits, due to 3rd WF/JET noncompliance?

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 signed a Work and/or Self-Sufficiency Rules for Cash Recipients form on September 24, 2007, acknowledging that he understood he must comply with Work

First/Jobs, Education and Training (WF/JET) program requirements or be subject to sanctions if he fails to comply without good cause (Department's Exhibit #1).

2. Claimant was assigned to WF/JET but had poor attendance and was assigned to triage in December, 2007. At the triage meeting claimant stated he has been employed for the past month, but did not provide verification of employment. Claimant stated he was on assistance because his child's mother died. Claimant was assigned to Job Search classes unless verification of employment was to be received by December 10, 2007 (Department's Exhibits #3-9).

3. Claimant did not return to Job Search or provide verification his employment, and his FIP case closed. Claimant requested a hearing and after review of his case by departmental manager it was determined that he may not have received some correspondence about compliance in a timely manner. Claimant's FIP case was to be reopened after he "signed by phone on 3/20/08" the First Noncompliance Letter agreeing to attend JET orientation on March 26, 2008 and comply with JET through April 4, 2008 (Department's Exhibits #10-14).

4. Claimant signed a Hearing Request Withdrawal that states "DHS and I have agreed to the decision of no good cause, but that I may not have received my paperwork in time to comply as requested for my 1 time, 10-day chance to serve a penalty without losing benefits. I will return on Wednesday, 03/26 to JET orientation and begin my JET activity on Monday, 03/31. A second chance letter will not be given. I must stay in compliance through Friday, 04/04 and then my case will be reinstated. As long as I meet this requirement my FIP benefits from December-now will be reinstated and my FAP disqualification will be ended. If I want to continue to receive FIP, I must stay in compliance with JET. If I no longer want to receive FIP

benefits, I understand that I can request my case closed any time after 04/04.” (Department’s Exhibit #15).

5. Claimant complied with JET and his FIP case was reinstated. In July, 2008 claimant was once again scheduled for a triage meeting due to not meeting his minimum required federal hours of participation with the JET program. Claimant stated he was ill but never provided a doctor’s note for a possible deferral, and never returned Medical Needs form given to him to be completed by his doctor. No good cause for JET noncompliance was found, but the claimant signed another First Noncompliance Letter on July 22, 2008, agreeing to comply with JET in order to keep his FIP and FAP benefits. This letter was offered in error, as the claimant had already been given such a letter in March, 2008 (Department’s Exhibits #16-23).

6. On March 5, 2009, department mailed the claimant a Notice of Noncompliance scheduling a triage appointment for March 11, 2009, due to his not meeting his minimum required federal hours of participation with the JET program. It was noted that the claimant attended the week of 2-16-09 for 27.5 hours and 2-23-09, 0 hours as he signed in but failed to sign out (Department’s Exhibit #24).

7. Claimant stated he had family oriented things going on, his 16 year-old son who has a sport injury is temporarily living with him, he felt displaced at JET, wasn’t getting what he needed, and was also working on getting his felony off his record. No good cause was given (Department’s Exhibits #27-30).

8. Claimant’s FIP case closed on March 21, 2009, and his FAP benefits were sanctioned. Claimant requested a hearing on April 9, 2009, going back to 2007 to contest department’s determination that this was his 3rd FIP sanction.

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).

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 (DHS or department) 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).

DHS requires clients to participate in employment and self-sufficiency-related activities and to accept employment when offered. All Work Eligible Individuals who are not deferred, who fail, without good cause, to participate in employment or self-sufficiency related activities, must be penalized. PEM 233A and B. Claimant was a mandatory WF/JET participant and therefore required to participate in assigned activities for 30 hours per week in order to continue to be eligible for FIP and FAP benefits. Claimant failed to do so in February, 2009 and was found to have no good cause for this noncompliance. Claimant testified that he had a job offer and a job, and this is why he failed to attend JET, however further questioning revealed that he

only worked for 1 day until the employer allegedly found out he had a criminal record and let him go. Claimant then stated that his 16 year-old son was injured in New York and he had to travel there. Department's documentation shows that the claimant stated at the triage meeting that his 16 year-old son was staying with him in Michigan and this is why he did not attend JET. Claimant then stated that he has a medical condition, however department has no record of the claimant ever providing any medical verification from his doctor to verify his claim. Lastly, claimant testified that the department failed to provide him with "reasonable accommodations" due to the loss of his wife. Documentation shows that the claimant lost his wife prior to applying for assistance in year 2007, and that in December, 2007 he stated he has been working for the past month, so it is unclear as to what type of "special accommodations" claimant needed from WF/JET or the department. If the claimant was indeed suffering from some type of mental issues from the death of his wife department would have provided him with medical forms to verify he had such a condition. However, the fact that the claimant told the department he was working in December, 2007 shows that he was capable of being in a work environment, did not have issues preventing him from working, and therefore also capable of complying with WF/JET requirements.

Claimant also states that this is only the 2nd time he has not complied with WF/JET and not the third. Department's detailed and thorough documentation as cited in statements of fact clearly establishes that this is claimant's 3rd FIP sanction. In addition, this Administrative Law Judge does not have jurisdiction over any issues underlying previous actions by the department in 2007 and July, 2008, such as claimant's attempt to argue his reasons for WF/JET noncompliance in these years. Claimant withdrew his hearing request in March, 2008 regarding his proposed 2007 sanction (see Finding of Fact #4), and this withdrawal is very specific in

explaining that this would still be claimant's first FIP sanction. Claimant stated that he signed the withdrawal in a hurry and did not read it. However, such excuse is not acceptable as claimant's signature is an acknowledgment that he knew what he was signing. Furthermore, the regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code (MAC) R 400.901-.951. Any hearing request which protests a denial, reduction, or termination of benefits must be filed within 90 days of the mailing of the negative action notice. MAC R 400.902; MAC R 400.903; MAC R 400.904. This Administrative Law Judge is therefore precluded from addressing any concerns claimant may have regarding events of 2007 and July, 2008.

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 and sanctioned his FAP benefits in March, 2009. Department also correctly determined that this was claimant's 3rd FIP WF/JET noncompliance, resulting in a one year sanction of FIP benefits.

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: June 9, 2009

Date Mailed: June 11, 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 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.

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