

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: 2009-19673
Issue No: 1005
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
May 27, 2009
Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Tyra L. Wright

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 hearing was held on May 27, 2009. Claimant personally appeared and testified. Claimant's sister appeared as a witness. A family independence specialist and a family independence manager represented the Department.

ISSUE

Did the Department act properly in sanctioning Claimant by closing her Family Independence Program (FIP) case on the grounds that she failed to complete the Family Automated Screening Tool (FAST)?

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 is a FIP benefits recipient for a group size of four. She last received \$597 in monthly FIP benefits.

- (2) On February 6, 2009, the Department sent Claimant a Notice of Noncompliance, DHS-2444, stating that she “did not complete fast.” FAST is an online survey that FIP recipients are required to complete. In addition, the notice stated that a meeting had been scheduled for February 10, 2009 at 8:15 AM that Claimant did not have to attend if she completed the FAST. (Exhibit 2).
- (3) Claimant did not appear for the meeting.
- (4) Claimant contends that she did not receive the Notice of Noncompliance.
- (5) Claimant and the Department witness both asserted that Claimant had trouble receiving her mail for more than a year. In addition, the Department received notice from the U.S. Post Office that certain mail had not been delivered to Claimant. (See Exhibits 1 and 3).
- (6) The Department determined that no good cause existed for her noncompliance after she failed to attend the meeting. Consequently, the Department determined to close her case as a sanction.
- (7) Claimant disagreed with the Department finding that there was no good cause for her noncompliance with JET.
- (8) The Department received Claimant’s hearing request on April 13, 2009. (Exhibit 4).

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 for FIP are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

DEPARTMENTAL PHILOSOPHY

The Family Independence Program (FIP) and Refugee Assistance Program Cash (RAPC) are temporary cash assistance programs to support a family's movement to self-sufficiency. The Family Self-Sufficiency Plan (FSSP) was created to allow DHS and other DHS client service providers to share information about our mutual clients for optimal case management. The department's goal of assisting families to achieve self-sufficiency whenever possible can only be achieved if barriers are properly identified and overcome.

Use the Family Automated Screening Tool (FAST) and the FSSP described below to serve the cash assistance recipients and Prevention Services for Families (PSF) program participants.

DEPARTMENTAL POLICY

Federal and state laws require each family receiving FIP or RAP to develop a plan and participate in activities that will strengthen the family and/or help them reach self sufficiency. Initial users of the FSSP include DHS and JET/MWA workers.

Michigan's success in meeting federal work participation requirements is measured by the client's actual hours of participation in work related activities as entered on the FSSP.

The Family Automated Screening Tool (FAST) is a Web-based initial screening to identify the strengths and needs of FIP/RAP families. Completing a FAST is the FIP/RAP client's first required work related activity and establishes a foundation for the development of a successful FSSP.

All Work Eligible Individuals (WEIs) and non WEI's as defined below are required to complete the FAST within 30 days and participate in the development of the FSSP within 90 days of the FAST/FSSP notice.

Compliance with the FSSP is a required activity for all WEIs. These requirements apply to FIP and RAP clients who are referred to JET as well as those who are deferred. Non-compliance with the FSSP without good cause will result in penalties outlined in PEM 233A, 233B and 233C.

WHEN TO COMPLETE

Explain the purpose of the FAST and FSSP at the initial interview and determine whether the client needs a paper copy of the FAST or additional help to complete the FAST. A FAST/FSSP notice, DHS-1535 or 1536 is automatically sent to applicants the night of the FIP and RAP Initial Interview done in ASSIST. All clients listed on the notice are required to complete the FAST within 30 days and the FSSP within 90 days of the notice. The DHS-1535 is for deferred WEIs and the DHS-1536 is for referred WEIs. (PEM 228, p. 1).

CLIENT OR AUTHORIZED REPRESENTATIVE RESPONSIBILITIES

Responsibility to Cooperate All Programs

Clients must cooperate with the local office in determining initial and ongoing eligibility. This includes completion of necessary forms. (PAM 105, p. 5)

Refusal to Cooperate Penalties All Programs

Clients who are able but refuse to provide necessary information or take a required action are subject to penalties. (PAM 105, p. 5)

In this case, Claimant contends that she did not receive the Notice of Noncompliance that would have told her that a meeting was scheduled on February 10, 2009 to discuss her failure to complete the FAST. Her testimony was found to be credible. Because Claimant was not aware that a meeting had been scheduled, she did not attend the meeting. As a result, Claimant was not given an opportunity to establish good cause for her failure to complete the FAST. Furthermore, it found that the Department did not establish that Claimant failed to cooperate with the Department according to PAM 105. Consequently, it is found that her FIP case should not have been closed under these circumstances.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department improperly closed Claimant's FIP case as a sanction for her failure to complete the FAST survey.

Accordingly, the Department's action is REVERSED. The Department is ORDERED to (a) reopen Claimant's case if it has been closed, (b) issue any retroactive FIP benefits Claimant would have received had her case not been closed, and (c) schedule another opportunity for Claimant to submit the FAST.

/s/ _____
Tyra L. Wright
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 06/03/09

Date Mailed: 06/05/09

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.

TW/dj

cc:

A large black rectangular redaction box covering several lines of text in the distribution list.