

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.: 2009-23044
Issue No.: 1038
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
June 24, 2009
Wayne County DHS (59)

ADMINISTRATIVE LAW JUDGE: Michael J. Bennane

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9; MSA 16.409 and MCL 400.37; MSA 16.437 upon the Claimant's request for a hearing. After due notice, a telephone hearing was held on June 24, 2009. The Claimant personally appeared and testified.

ISSUE

Did the Department properly close the Claimant's Family Independence Program (FIP)?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material and substantial evidence on the whole record, finds as material fact:

1. The claimant was a FIP recipient and required to participate in job related activities.
2. On March 6, 2009, the department sent the claimant a notice of noncompliance with a triage scheduled for March 17, 2009. (Department exhibit 1).
3. On March 17, 2009, the claimant told the department she no longer wanted FIP.

4. On March 17, 2009, the department found no good cause for the claimant's noncompliance. (Department exhibit 2).
5. On April 29, 2009, the department removed the claimant from her FAP case because her FIP had been sanctioned.
6. On May 12, 2009, the claimant filed a request for a hearing.

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 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 the instant case the department referred the claimant to JET. The claimant attended JET orientation but informed JET personnel and the department that she had enrolled in school. At this point the department should have attempted to overcome the barrier (school).

In any event, the claimant told the department that if she could not attend school and not go the JET she no longer wanted to receive FIP. The department placed her FIP into sanction status and removed the claimant from the ongoing FAP case.

Once the claimant told the department that she no longer wished to receive FIP she was no longer be subject to the necessary attendance at JET and could not be in noncompliance with a program she no longer wished to be part of.

I find the claimant was not in noncompliance and that she should not have been sanctioned. Since the claimant informed the department that she no longer wished to receive FIP she cannot be found in noncompliance. The department should have honored the claimant's request to be removed from the FIP program and her FAP benefit would be unaffected by her failure to attend JET.

DECISION AND ORDER

The Administrative Law Judge based on the above findings of fact and conclusions of law, REVERSES AND ORDERS the Department to retroactively reinstate the claimant on her FAP case and replace any lost benefits.

/s/

Michael J. Bennane
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 08/12/09

Date Mailed: 08/12/09

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 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.

MJB/jlg

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