

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: 2009-23324
Issue No: 1038
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
July 2, 2009
Grand Traverse 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 July 2, 2009. Claimant personally appeared and testified.

ISSUE

Did the department properly take action to terminate claimant's Family Independence Program (FIP) benefits in May, 2009?

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 FIP recipient and a Jobs, Education and Training (JET) program participant when the department received an e-mail on April 13, 2009, from Michigan Works (MW) saying the claimant attended Job Club on April 9, 2009 but left early, and did not provide

her weekly paperwork that was due. E-mail also stated that the claimant did not return for Anger Management. and asked for a triage to be scheduled. (Department's Exhibit 1).

2. On April 13, 2009, department mailed the claimant a Notice of Noncompliance scheduling a triage appointment for April 17, 2009. (Department's Exhibit 2).

3. Claimant called on April 16, 2009, stating she would not be able to attend the triage due to having a doctor's appointment. After discussing claimant's reasons for alleged JET noncompliance, department concluded she had no good cause for the noncompliance. (Department's Exhibit 3).

4. As this was claimant's first instance of noncompliance she was issued a First Noncompliance Letter telling her she must return to Job Club and JET assignments as before starting on April 20, 2009, for up to 40 hours. Claimant agreed to comply. (Department's Exhibit 4).

5. On April 29, 2009, it was determined that the claimant did not attend Job Club on April 23, 2009, due to some appointments she had, but she did provide her weekly log as required. Claimant however failed to drop off additional homework assignment that was due that day, and a triage was scheduled for May 7, 2009. (Department's Exhibits 5 and 6).

6. On May 7, 2009 department found no good cause for claimant's JET noncompliance as she agreed she did not turn in the MW homework and that she missed Job Club on April 27, 2009 and did not call MW. (Department's Exhibit 7).

7. Department's notes of May 7, 2009, quote the claimant as saying she did not get her FIP grant, and she was kicked out of [REDACTED], a domestic violence shelter as JET told staff there she was in noncompliance. (Department's Exhibit 8).

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).

DHS requires clients to participate in employment and self-sufficiency-related activities and to accept employment when offered. All Work Eligible Individuals who fail, without good cause, to participate in employment or self-sufficiency-related activities, must be penalized. PEM 233A. That the claimant failed to complete all of the activities assigned to her by JET is not in dispute. Claimant's hearing testimony however, does indicate she was having issues in her personal life that should have been considered by the department for a possible temporary deferral from JET participation.

Claimant states that she has been living in [REDACTED] a domestic violence shelter, since January, 2009, and this fact was known to the department. Claimant further states that her daughter is a victim of sexual abuse and that they are both victims of domestic violence. Claimant explains that she did not make it to Job Club at the end of April as she had to travel out of town and pack up her belongings at a house she had owned for a number of years that was being foreclosed on. Claimant's FIP benefits were not issued to her due to some computer glitch, also a fact not disputed by the department, and she states she had no money to return to town in time for JET activities.

Departmental policy states:

GOOD CAUSE FOR NONCOMPLIANCE

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. Document the good cause determination on the DHS-71, Good Cause Determination and the FSSP under the “Participation and Compliance” tab.

See “School Attendance” PEM 201 for good cause when minor parents do not attend school.

Good cause includes the following:

Unplanned Event or Factor

Credible information indicates an unplanned event or factor which likely prevents or significantly interferes with employment and/or self-sufficiency-related activities. Unplanned events or factors include, but are not limited to the following:

- . Domestic violence.
 - . Health or safety risk.
 - . Religion.
 - . Homelessness.
 - . Jail.
 - . Hospitalization.
- PEM 233A.

Claimant has been in a domestic violence shelter from January, 2009 to end of April, 2009 when she was kicked out of this shelter because she did not return on scheduled return date and time. Claimant however did not receive her FIP benefits and had no money for transportation to return to the shelter. As the claimant had been in this shelter for 4 months, department should have reviewed this fact as an unplanned event or factor that could have significantly interfered or prevented her from participating with employment and/or self-sufficiency-related activities.

In conclusion, claimant did agree to participate in employment-related activities and did not do so. Department however should have addressed claimant's circumstances to determine if a JET deferral was appropriate due to domestic violence issues and domestic violence shelter residence. Claimant's noncompliance is to be considered as first instance of such noncompliance. Department is however to give the claimant another chance to participate in JET activities unless she has good cause not to do so at the present time.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department improperly took action to terminate claimant's FIP benefits in May, 2009.

Accordingly, department's action is REVERSED. Department shall:

1. Continue claimant's FIP benefits without interruption.
2. Review claimant's circumstances to determine if she qualifies for a JET deferral.
3. If the claimant does not qualify for such deferral, give her another opportunity to participate in JET activities in order to continue her FIP grant without interruption.
4. Notify the claimant in writing of any actions taken on her case, or of any JET participation requirements.

SO ORDERED.

/s/ _____
Ivona Rairigh
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: July 9, 2009

Date Mailed: July 10, 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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