

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: 2009-24468
Issue No: 1038
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
August 11, 2009
Berrien 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 August 11, 2009. Claimant personally appeared and testified.

ISSUE

Did the department correctly 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 mandatory Work First/Jobs, Education and Training (WF/JET) participant when she informed JET staff on February 25, 2009, that she started working as a home help aid earning 25-30 hours per week at \$7.50 per hour.

2. As of March 30, 2009, according to WF/JET Update/View Case Notes claimant failed to report to JET worker since she began her employment, and also failed to provide pay check stubs to verify that she continued to be employed, as she was required to do.

3. Claimant signed “My contract with Michigan Works/JET” on June 9, 2008, agreeing to comply with listed requirements which include detailed explanations as to how she is to report employment, including that if she does not provide documentation of employment hours within 10 days of the start date of her activity, those hours may not be counted toward activity hours.

4. As the claimant did not provide any verification of her employment, i.e. pay stubs, and had not reported to JET in about 6 weeks (from February 25, 2009 to March 30, 2009), JET staff requested a triage.

5. On April 8, 2009, department sent the claimant a Notice of Noncompliance scheduling a triage for April 15, 2009. Claimant was a no show/no call for the triage and department started action to terminate her FIP benefits effective May 27, 2009. Claimant requested a hearing on May 22, 2009 and continues to receive FIP benefits pending the outcome of the 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 (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's policy states:

DEPARTMENT PHILOSOPHY

FIP

DHS requires clients to participate in employment and self-sufficiency-related activities and to accept employment when offered. Our focus is to assist clients in removing barriers so they can participate in activities which lead to self-sufficiency. However, there are consequences for a client who refuses to participate, without good cause.

The goal of the FIP penalty policy is to obtain client compliance with appropriate work and/or self-sufficiency-related assignments and to ensure that barriers to such compliance have been identified and removed. The goal is to bring the client into compliance.

Noncompliance may be an indicator of possible disabilities. Consider further exploration of any barriers.

DEPARTMENT POLICY

FIP

All Work Eligible Individual (WEI) and adult non-WEIs (except ineligible grantees, clients deferred for lack of child care (DC) and disqualified aliens), see PEM 228, who fail, without good cause, to participate in employment or self-sufficiency-related activities, must be penalized. Depending on the case situation, penalties include the following:

- Delay in eligibility at application.
- Ineligibility (denial or termination of FIP with no minimum penalty period).
- Case closure for a minimum of three or 12 months.

See PEM 233B for the Food Assistance Program (FAP) policy when the FIP penalty is closure. For the Refugee Assistance Program (RAP) penalty policy, see PEM 233C. PEM 233A, p. 1.

NONCOMPLIANCE WITH EMPLOYMENT AND/OR SELF-SUFFICIENCY-RELATED ACTIVITIES

As a condition of eligibility, all WEIs and non-WEIs must work or engage in employment and/or self-sufficiency-related activities. 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) or PRPFC.
 - .. Appear for a scheduled appointment or meeting.
 - .. 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.

Claimant reported she was working on February 25, 2009. Claimant was well aware that she had to report to JET and verify her earnings and continued employment, as she had signed

the contract with MW/JET in June, 2008 specifying in great detail what her obligation was as it pertains to employment. Claimant's explanation as to why she did not provide required employment verification to WF/JET staff for 6 weeks is that "it was just a misunderstanding". Claimant was then asked why she did not attend the triage appointment on April 15, 2009 and responds that she was arrested on April 14, 2009 and had to appear in court on April 15, 2009. Claimant could have called the department on this date after her court appearance but states she was "stressed out" and did not call, and had a "lot on her mind".

This Administrative Law Judge does not find claimant's explanations as to why she failed to provide employment verification to JET staff or why she did not contact the department about the triage appointment to be sufficient and rise to the level of good cause for JET noncompliance. Departmental policy on good cause reasons does not include the reason testified to by the claimant for her failure to comply with JET requirements. PEM 233A.

DECISION AND ORDER

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

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: April 12, 2009

Date Mailed: April 13, 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.

IR [REDACTED]

cc: [REDACTED]