

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: 2009-27550
Issue No: 1038
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
July 30, 2009
St. Clair 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 30, 2009. Claimant personally appeared and testified along with her husband

[REDACTED]

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 and her husband were FIP recipients with [REDACTED] being a mandatory Work First/Jobs, Education and Training (WF/JET) program participant.

2. ██████ started approved training at ██████ on April 16, 2009. On May 1, 2009 MW/JET received college April attendance form for ██████ which showed he missed 4 days (20 hours) of school, on April 17, 23, 27 and 29, and attended 7 days.

3. MW/JET Update/View Case Notes of May 1, 2009, indicate that ██████ exceeded allowable absence hours for the month of April, 2009, and that his file was returned due to noncompliance for triage.

4. Notes also indicate that ██████ brought in a doctor's note for May 1, 2009, stating he was seen from 8:30 am to 10:30 am, but had no slip excusing him for any time off from work/school. ██████ explained that he had to go to an ultrasound on April 27, 2009 with his wife (who is expecting their 5th child), and that he had to do something concerning his probation on April 29, 2009, but did not elaborate what it was. When asked if either of those appointments were all day events, ██████ responded they only lasted 1-2 hours, and could not provide a reason why he could not attend school after the appointments (as his program is structured as an open, walk-in lab).

5. ██████ was told he would need to bring in a doctor's note excusing him from attending work/school for the entire day in order for him to have a valid reason not to be sent to triage.

6. On May 5, 2009, ██████ brought in a doctor's note for April 27, 2009 showing his wife had to go in for testing and the procedure lasted 3 hours. File had already been returned for triage, and ██████ was told that it might be beneficial for him to get a note from his Parole/Probation Officer proving that he met with him on April 29, 2009 and stating the time of his appointment, proving that it lasted all day.

7. ██████ stated to WF/JET staff that his case was closing in a week anyway due to him obtaining employment and refused to take a form for his employer to fill out, as he stated

that he had already completed such a form for DHS caseworker. WF/JET staff informed [REDACTED] that he would have to fill out their form to remain in compliance and he said he would bring staff a copy next week. [REDACTED] was reminded that without employment verification, he would have to attend triage for failing to meet training hour requirement, and his response was that he did not care as he has a job making \$15 per hour.

8. Department mailed the claimant a Notice of Noncompliance on May 6, 2009, scheduling a triage for May 14, 2009. [REDACTED] came in a day late for the triage, on May 15, 2009 and stated that he was at the school even though his instructor said he was not, but provided no proof of his absences. No good cause was found for [REDACTED] missing too many hours of school, as his classes were open lab and he can go anytime to college.

9. Department took action to terminate claimant's FIP benefits on effective May 19, 2009. Claimant requested a hearing on May 15, 2009 and FIP benefits remain active pending the outcome of this 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).

Departmental 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 job interview (see the exception below).
 - .. 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.

██████████ being a mandatory WF/JET participant is not in dispute. It is also not in dispute that he was to participate in college assignments as part of his WF/JET participation

requirements. [REDACTED] testified that he was told by his college instructor to go home on April 17, 2009 and that he was seeing his P.O. on April 29, 2009, but failed to provide any verification of his claims. [REDACTED] states he does not remember why he was absent from college on April 23, 2009. A statement from [REDACTED] stating that [REDACTED] was there for testing on April 27, 2009 has been provided, but there is no indication how many hours this testing took. Furthermore, WF/JET assignments are to be treated as employment, and [REDACTED] cannot chose not to attend the assignments without prior approval from WF/JET staff, unless some type of verifiable medical emergency occurred the day of his college attendance that prevented him from obtaining prior approval of absence. No evidence has been presented that such medical emergency existed.

In conclusion, [REDACTED] did not have good cause reason to be in non-compliance with WF/JET activities, and department was left with no choice but to take action to terminate claimant's FIP benefits.

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: August 17, 2009

Date Mailed: August 18, 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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