

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

██████████,

Claimant

Reg. No. 2009-29972

Issue No. 1038, 3029

Case No. ██████████

Load No. ██████████

Hearing Date:

August 19, 2009

Macomb County DHS

ADMINISTRATIVE LAW JUDGE: Colleen Lack

HEARING DECISION

This matter is before the undersigned Administrative Law Judge upon pursuant to MCL 400.9; MCL 400.37 upon claimant's request for a hearing. After due notice a telephone hearing was held on August 19, 2009 and claimant was not represented. Audry Berlin, FIS, appeared on behalf of the department.

ISSUES

- 1) Whether the Department properly closed claimant's Family Independence Program (FIP) benefits case for non-compliance with employment related activities.
- 2) Whether the Department properly penalized claimant's Food Assistance Program (FAP) benefits due to the non-compliance with employment related activities.

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 an ongoing recipient of FIP and FAP benefits in a household of 2 persons.
2. Claimant began participating in the Work First program on May 18, 2009.
3. On June 3, 2009, the Work First program returned the case to the department for noncompliance due to problems with her attitude and behavior. (Department Exhibit 2 pg. 1)
4. Claimant began a new job on June 11, 2009. (Department Exhibit 6 pg. 1)
5. The department scheduled a triage meeting regarding the noncompliance for June 18, 2009 and claimant did not attend. (Department Exhibit 1)
6. On June 18, 2009, the department re-calculated claimant's FAP budget to reflect the earnings from her new job. (Department Exhibit 5)
7. The department closed the FIP benefits case on June 23, 2009 and a three month penalty was imposed on the FIP and FAP cases for the months of July, August and September 2009.
8. Claimant requested a hearing contesting the closure on July 1, 2009.

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 Dependant 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, 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 (“DHS”), formally known as the Family Independence Agency, administers the FAP program pursuant to MCL 400.10, *et seq* and MAC R 400.3001-3015. Departmental policies are found in the Program Administrative Manual (“PAM”), the Program Eligibility Manual (“PEM”), and the Program Reference Manual (“PRM”).

The Family Independence Program (FIP) provides temporary cash assistance to support a family’s movement to self-sufficiency. The recipients of FIP engage in employment and self-sufficiency-related activities so they can become self-supporting. Federal and State laws require each work eligible individual (WEI) in the FIP group to participate in the Jobs, Education and Training (JET) Program or other employment-related activities unless temporarily deferred or engaged in activities that meet participation requirements. These clients must participate in employment and/or self-sufficiency related activities to increase their employability and obtain stable employment. PEM 230A.

JET is a program administered by the Michigan Department of Labor and Economic Growth (DLEG) through the Michigan Works Agencies (MWAs). The JET program serves employers and job seekers for employers to have skilled workers and job seekers to obtain jobs that provide economic self-sufficiency. PEM 230 A. A mandatory participant in the JET program who fails without good cause to participate in employment activity must be penalized. PEM Manual Item 233(a). The penalty for the first occurrence of noncompliance in the JET program is a closure for a minimum of three calendar months under the FIP program. PEM Manual Item 233(a). If a customer is found in noncompliance with FIP when they are also a

recipient of FAP, their FAP case will also be penalized for a minimum of three months under the JET program. PEM Manual Item 233(b); 42 USC 607. Good cause is a valid reason for noncompliance with employment related activities. A claim of good cause must be verified and documented for applicants, members, and recipients. PEM Manual Item 230(a), PEM Manual Item 230(b); 7 CFR Parts 272 and 273.

In the present case, claimant was an ongoing recipient of FIP and FAP benefits who was participating in the Work First program. There was no representative from Work First present for the hearing, but case notes were submitted. (Department Exhibit 2) The case notes indicate that the claimant's case was returned to DHS on June 3, 2009 after a behavioral incident stating claimant had been given two other verbal warnings. (Department Exhibit 2 pg. 1.) However, the Work First notes only document one prior verbal warning. On May 27, 2009 a verbal warning was given relating to a testing incident when claimant questioned the need to provide her social security number on an answer form. (Department Exhibit 2 pg.3)

Additionally, the department recalculated claimant's FAP budget on June 18, 2009 reflecting the expected earnings from her new job and the FIP cash benefit. (Department Exhibit 5) Claimant objects to the inclusion of the FIP cash benefit in the budget during the penalty months when she did not actually receive the cash benefit. PEM 233 B does require the department to budget the last FIP grant amount on the FAP budget for the number of months that corresponds with the FIP penalty. Claimant also testified that her monthly rent is dependant on her earnings as well as the amount of benefits she receives. Claimant testified that the earnings and benefit changes did result in a rent increase which was not included in the FAP budget.

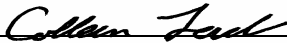
Based upon the foregoing facts and relevant law, it is found that the department's FIP eligibility determination was incorrect. The notes from Work First do not support the alleged

noncompliance of continued behavior problems after two verbal warnings. The FIP case shall be reinstated retroactive to the closure date of June 23, 2009, the penalty shall be removed from the FIP and FAP cases and the FAP budgets shall be recalculated. A referral back to the Work First program may not be necessary if claimant's employment has continued at sufficient hours/earnings.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the department has not provided sufficient proof of noncompliance with Work First as the documentation submitted does not support continued behavioral problems after two prior verbal warnings.

Accordingly, the Department's FIP and FAP eligibility determinations are REVERSED. Therefore it is ORDERED that the department reinstate Claimant's FIP case retroactive to the closure date of June 23, 2009, remove the penalty on the FIP and FAP cases, recalculate the FAP budgets, and award benefits to claimant, if appropriate, in accordance with this decision.



Colleen Lack
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 09/21/09

Date Mailed: 09/22/09

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.

CL/dj

cc:

