

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: 2009-30363

Issue No: 1038

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

September 3, 2009

Washtenaw 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 September 3, 2009. Claimant personally appeared and testified.

ISSUE

Did the department correctly deny claimant's Family Independence Program (FIP) application 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 applied for FIP benefits sometimes prior to May, 2009 and was referred to Work First/Jobs, Education and Training (WF/JET) program.

2. Update/View Activities Participant History indicates that the claimant attended WF/JET orientation on April 20, 2009, but did not attend after this date. (Department's Exhibit 3).

3. On May 4, 2009, department mailed the claimant an Application Eligibility Notice telling her that her FIP application has been denied due to her failure to attend required JET program. (Department's Exhibits 1 and 2).

4. Claimant requested a hearing on June 24, 2009. At the hearing claimant provided a business card from a WF/JET Case Manager Ebony Cargile with hand-written appointment for April 22, 2009 at 1 pm. Claimant testified that she attended this appointment and provided additional information needed for her JET participation at that time.

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, RAP Cash

Clients must be made aware that public assistance is limited to 48 months to meet their family's needs and that they must take personal responsibility to achieve self-sufficiency. This message, along with information on ways to achieve independence, direct

support services, non-compliance penalties, and good cause reasons, is initially shared by DHS when the client applies for cash assistance. Jobs, Education and Training (JET) program requirements, education and training opportunities, and assessments will be covered by the JET case manager when a mandatory JET participant is referred at application. PEM 229, p. 1.

Failure by a client to participate fully in assigned activities while the FIP application is pending will result in denial of FIP benefits, if upon the day of case processing the client is in noncompliance with JET. Use ASSIST denial code 463 and CIMS denial code 210 for clients denied FIP benefits for noncompliance while the application is pending. Retain a copy of the appointment notice in the case record. Do not penalize Food Assistance when a client fails to attend JET as a condition of eligibility when the noncompliant person is not active FIP on the date of the noncompliance. Clients must be active FIP to apply a FIP penalty to the FAP case.

Exception: You must manually provide ineligible grantees and Disqualified Aliens a DHS-1535, FAST Notice, at intake or at review if not completed during the intake process. Enter the FAST notice date on the Family Self-Sufficiency Plan (FSSP) for tracking purposes. PEM 229, p. 2.

That the claimant had to report for JET is not in dispute. What is in dispute is whether the claimant did follow up activities required of her. Claimant testified that she told the JET Case Manager on April 20, 2009, during her JET orientation, that she was attending Ross Medical School. Claimant further testified that she was told to provide the school schedule and to report on April 22, 2009 at 1 P.M. with it. Claimant stated she called and rescheduled her appointment with the Case Manager for 10:30 A.M., she showed up at that time, saw Case Manager Cargile, in person and provided her with the school schedule.

Department's representatives at the hearing which included a Team Leader from MWA/JET were unable to respond to claimant's testimony due to lack of information to do so. The Administrative Law Judge then called JET Case Manager Ebony Cargile and connected her

into the hearing by a three way telephone connection. Ms. Cargile repeated several times that the claimant was in for orientation on April 20, 2009, that she has school documents received on May 11, 2009, and that the claimant called her in June, 2009 to state she had an energy emergency (something not handled by JET). Ms. Cargile had apparently kept detailed notes regarding these dates. However, Ms. Cargile could not address what occurred on April 22, 2009, and why no notes were made for this date. This Administrative Law Judge reasoned that the claimant either showed on April 22, 2009, or that she did not show, and that in either case some notes regarding this date should have been made by JET staff, especially considering how thorough Ms. Cargile has been with other notes pertaining to the claimant. Ms. Cargile did state that other staff handled claimant's case at the end of April, 2009, and that the claimant did not turn in her school schedule as required.

MWA/JET Team Leader [REDACTED] was also present for the hearing. [REDACTED] explained that JET staff are able to call Ross Medical Center to verify attendance there, and that this is done on numerous occasions. Therefore, claimant either did provide requested information to JET on April 22, 2009, or JET staff could have easily assisted her in school attendance verification by calling [REDACTED]. A conclusion that the claimant failed to attend JET program during the pendency of her FIP application cannot therefore be reached.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department incorrectly denied claimant's FIP application in May, 2009.

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

1. Process claimant's disputed FIP application based on the application date (department did not provide any documentation to show the application date and could not testify to it at the hearing).

2. If claimant meets all eligibility criteria, approve FIP benefits for the pay period in which the 30th day following the date of application falls, and issue her any such benefits she is entitled to.

3. Notify the claimant in writing of this determination.

SO ORDERED.

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

Date Signed: September 8, 2009

Date Mailed: September 9, 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]