

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: 2009-33035
Issue No: 1038
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
September 23, 2009
Muskegon 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 23, 2009. Claimant personally appeared and testified.

ISSUE

Did the department correctly terminate claimant's Family Independence Program (FIP) benefits in July, 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 her employer notified WF Case Manager that she has been fired due to attendance issues.

2. Claimant was then mailed a Notice of Noncompliance scheduling a triage for July 15, 2009, to discuss her reasons for employment termination.

3. Claimant attended the triage meeting but according to WF/JET staff notes “offered nothing of substance in explaining reason for non-compliance. Good Cause was not found”.

4. Department then mailed the claimant a notice telling her that her FIP benefits will terminate on July 27, 2009. Claimant’s benefits did terminate on this date, and she requested a hearing on August 4, 2009.

5. Claimant testified at the hearing that she was not late that many times and that she was in a hospital for 2 days and missed work. Claimant also stated that she has been trying to get additional information from the hospital to verify her stay there, but did not have this information as of the date of the hearing. Claimant was given additional time to provide this information.

6. Following the hearing the Administrative Law Judge requested additional information as to whether the claimant has been given a First Noncompliance Letter, DHS-754, at the triage, as this appeared to be her first WF/JET noncompliance. Department advised that such a form could not be located and that it indeed should have been given to the claimant so she could have a chance to comply with assigned activities and continue to receive FIP benefits.

7. Department also advised that following the hearing claimant stated she did not know the name of the hospital where she was admitted; only that it was in Grand Haven (claimant lives in Muskegon). Claimant also stated she was terminated from her job due to discrimination because the hotel she worked at was owned by Arabs.

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).

That the claimant was a mandatory WF/JET participant and as such required to participate in employment-related activities is not in dispute. BEM 230A. Furthermore, any mandatory WF/JET participant that is fired from their job due to misconduct or absenteeism is subject to penalties. BEM 233A. Claimant's employer stated she was fired for absenteeism. Claimant testified that she was absent from work because she was hospitalized for 2 days. Claimant's testimony is not credible considering that she could not even remember the name of the hospital where she was at, and that she could not provide any verification about her hospital stay from July, 2009 when her triage took place up to the date of the hearing. Department therefore properly determined that the claimant did not have good cause for getting fired from her job. However, since this was claimant's first instance of WF/JET noncompliance, departmental policy requires that she be offered a DHS-754, First Noncompliance Letter, giving her a chance to participate in assigned activities and continue to receive her FIP grant without a penalty. DHS-754 was not given to the claimant and department's FIP closure was therefore in error.

DECISION AND ORDER

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

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

1. Reinstate claimant's FIP benefits back to the date of July, 2009 closure.
2. Issue the claimant any FIP benefits she did not receive as a result of the July, 2009 closure.
3. Schedule an appointment with the claimant so she can be offered a DHS-754.

Claimant is advised that if she declines the DHS-754 or fails to participate in assigned activities if she accepts the DHS-754, her FIP benefits may terminate again.

SO ORDERED.

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

Date Signed: October 8, 2009

Date Mailed: October 12, 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]