

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: 2009-33719
Issue No: 1038
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
November 5, 2009
Ionia 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 November 5, 2009. Claimant personally appeared and testified along with her stepmother [REDACTED]

ISSUE

Did the department correctly take action to terminate claimant's Family Independence Program (FIP) benefits in August, 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 receiving such benefits for herself, her fiancé, their child, and her 3 children.

2. Both the claimant and her fiancé were determined to be mandatory Jobs, Education and Training (JET) participants with the combined 35 hours of weekly participation in this program.

3. Claimant's hours of JET participation for the week of June 7, 2009 were 19 and her fiancé's were 15, for a total of 34 hours; for the week of June 14, 2009 hers were 24 and his 0 for a total of 24; for the week of June 21, 2009 hers were 27 and his were 0 for a total of 27; and for the week of June 28, 2009 hers were 0 and his 35 for a total of 35 hours. (Department's Exhibits 6-7 and 10).

4. As the claimant and her fiancé fell short of their required 35 hour weekly JET participation, department mailed Notice of Noncompliance on July 23, 2009 scheduling a triage for July 28, 2009 to discuss their reasons for JET noncompliance. (Department's Exhibits 14-18).

5. Claimant called on the date of the scheduled triage saying she did not get the paperwork for the appointment, and that she and her fiancé could not keep the triage appointment as she has had a sick family member, she has medical problems, and the fiancé was in jail. (Department's Exhibits 18-20).

6. On July 30, 2009, claimant's caseworker wrote a letter to the claimant and her fiancée stating she is unable to establish good cause for failure to participate in JET as required. Caseworker states that both the claimant and her fiancé have received instruction multiple times on what is required of the program and how to complete paperwork properly in order to document compliance. Claimant continued to submit paperwork late, it is not complete, and as a result, JET activities cannot be verified. Some weeks' paperwork is not submitted at all. (Department's Exhibit 21).

7. Caseworker further notes that the claimant was in JET noncompliance only two months ago and was given a “free pass”, and her case must therefore close for 12 months.

8. Claimant was given a First Noncompliance Letter on June 3, 2009, indicating her agreement she was noncompliant with the JET program without good cause and giving her another opportunity to participate and avoid FIP closure. (Department’s Exhibit 5).

9. Department took action to terminate claimant’s FIP benefits effective August 12, 2009. Claimant requested a hearing on August 6, 2009 and department deleted FIP negative action pending the outcome of this hearing.

10. Claimant testified at the hearing that she was in the emergency room (ER) multiple times in June, 2009, but only brought verification of one visit of June 10, 2009 to the hearing. Claimant also stated she had to attend court hearings in June, 2009 due to issues with her ex-husband.

11. Claimant was given 10 days to provide verification of ER visits for June, 2009 and of any court hearing dates for this month. On [REDACTED] claimant provided a doctor statement dated November 18, 2009, saying she was seen on [REDACTED] for endometriosis and was referred to an OB/GYN for a hysterectomy. Claimant also provided a printout from the hospital showing she had one ER visit on [REDACTED] no others in this month, and another visit on July 27, 2009. Prior to June, 2009 claimant had not been seen in this ER since [REDACTED] according to the printout.

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 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.

Department's documentation clearly establishes that the claimant and her fiancé did not complete their 35 hour weekly JET participation requirement for 3 out of the 4 weeks of the

month of June, 2009. Claimant testified that she was in ER multiple times in June, 2009 however, had only provided verification of one such visit in this month. Claimant stated she has lots of medical problems and did not know she could claim a deferral from the JET program. This claim is not found to be credible as the claimant had neither provided any verification of medical problems according to JET staff, and has been to JET orientation and had to be well aware she could verify medical problems for departmental review and possible deferral from the JET program.

Claimant then stated her children were sexually molested by her ex-husband in November, 2008, but he just got his visits with the children back. Claimant stated she was so upset in June over this that she suffers anxiety attacks, is afraid of her ex-husband, her fiancé had to stay home with her, her ex-husband broke her door down, etc. Claimant also stated her brother and other family members also stayed with her at her house to protect her and she was afraid to leave her house in June due to this. Claimant's testimony is not persuasive as she did complete 19 hours of JET participation for the week of June 7, 2009, 24 hours for the week of June 14, 2009, and 27 hours for the week of June 21, 2009. Therefore, claimant's issues with her ex-husband did not prevent her from JET participation for considerable number of hours in June, 2009.

Claimant also stated she had to attend a court hearing for a Personal Protection Order on [REDACTED] but had not provided any verification of this hearing. Even if she did, how one court hearing would prevent her from JET participation is not known.

Claimant continued with her reasons for JET noncompliance stating her fiancé had to baby sit in June, 2009 because she was sick so much, he also has an SSI hearing coming up, he is disabled due to back and neck pain, he was suffering from that in June also, and this is why they did not complete 35 hours weekly JET participation. Claimant's fiancé completed 15 hours of

JET participation for the week of June 7, 2009 and 35 hours for the week of June 28, 2009. When the hours of JET participation for June, 2009 for the claimant and her fiancé are looked at, a conclusion that they were completely unable to participate, or even that they had major problems with participation that were legitimate cannot be reached. Claimant also stated that her fiancé went to jail, however that turns out to have happened in July, not June, 2009.

In conclusion, this Administrative Law Judge is unable to conclude that claimant and her fiancé had good cause for their failure to participate in the JET program as required. Despite being given additional time to provide any verification she may have for this noncompliance even though department had very thorough documentation of what occurred on claimant's case, she was unable to provide such verification.

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 August, 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: January 13, 2010

Date Mailed: January 19, 2010

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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