

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: 2009-36016

Issue No: 1038

Case No:

Load No:

Hearing Date:

January 14, 2010

Oakland County DHS

ADMINISTRATIVE LAW JUDGE: Jonathan W. Owens

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 hearing was held on January 14, 2010. Claimant appeared and testified.

ISSUE

Did the Department of Human Services (Department) properly sanction Claimant's Family Independence Program (FIP) for failure to attend JET program?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as a material fact:

1. On March 16, 2009, Claimant applied for FIP.
2. On April 16, 2009, the Department denied Claimant's application for failure to attend JET.
3. On June 26, 2009, Claimant re-applied for FIP.
4. The Claimant filed a hearing request on August 26, 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 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).

Relevant policy section PEM 233A, p. 1:

FIP

DHS requires clients to participate in employment-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 in employment-related activities or refuses to accept employment, without good cause.

A mandatory participant who fails, without good cause, to participate in an employment-related activity, must be penalized.

Noncompliance for mandatory applicants, recipients, or member adds means doing **any** of the following **without** good cause:

Failing or refusing to:

- Appear for a scheduled appointment or meeting as required by the Michigan Works! Agency (MWA) or other contractor.
- Participate in employment-related activities required by the MWA or other contractor.
- Accept a job referral as required by the MWA or other contractor.
- Complete a job application as required by the MWA or other contractor.
- Appear for a job interview as required by the MWA or other contractor (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-related activity.
- Refusing employment support services if the refusal prevents participation in an employment-related activity.
- Refusing suitable employment. Refusing suitable employment means doing **any** of the following:
 - Refusing a bona fide offer of employment or additional hours up to 40 hours per week. A bona fide offer of employment means a definite offer paying wages of at least the applicable federal or state minimum wage. The employment may be on a shift; full or part time up to 40 hours per week; and temporary, seasonal or permanent.

In the present case, the Claimant's application was denied for failure to appear for JET appointment scheduled for April 8, 2009. The Department failed to provide a copy of the notice of the appointment to demonstrate notice was given to the Claimant. The Claimant testified she never received a notice of an appointment. The Department denied the application on April 16, 2009. The Department attempted to give notice of the denial but the denial notice was deficient in that it failed to provide the policy citations required in order to satisfy the notice requirements.

BAM ITEM 220, P 1-2:

NOTICE OF CASE ACTIONS

All Programs

Upon certification of eligibility results, Bridges automatically notifies the client in writing of positive and negative actions by generating the appropriate notice of case action. The notice of case action is printed and mailed centrally from the consolidated print center.

For **FAP Only**, see **Actions Not Requiring Notice** in this item.

Written notice is **not** required to implement a hearing decision or policy hearing authority decision.

Refer to policy in BAM 600 if a client contacts you to dispute a case action.

There are two types of written notice: **adequate** and **timely**.

A notice of case action must specify the following:

- The action(s) being taken by the department.
- The reason(s) for the action.
- The specific manual item which cites the legal base for an action or the regulation or law itself.
- An explanation of the right to request a hearing.
- The conditions under which benefits are continued if a hearing is requested.

Since the Department notice failed to state the policy cites for the action being taken, the 90 days to request a hearing failed to start. Therefore, this Administrative Law Judge can consider the actions of the Department back on April 16, 2009.


Here, the Department denied a FIP application for failure to attend JET. The Department must demonstrate they informed the Claimant of the appointment in order to use the failure to attend as a reason for denying the application. In the instant case, the Department failed to provide a copy of the alleged appointment letter sent to the Claimant. This Administrative Law Judge is then left with a credibility determination. The Claimant testified she never received an appointment letter and this Administrative Law Judge finds her testimony credible.

Therefore, the Department incorrectly denied the Claimant's application for FIP.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department of Human Services was not acting in compliance with Department policy.

Accordingly, the Department's decision is REVERSED and the Department is to reprocess the Claimant's application dated March 16, 2009 and supplement her for any loss in benefits.



Jonathan W. Owens
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 03/23/10

Date Mailed: 03/24/10

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.

JWO/dj

cc:

