

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: 2009-36032
Issue No: 1038
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
October 15, 2009
Gratiot County DHS

ADMINISTRATIVE LAW JUDGE: Suzanne L. Keegstra

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 October 15, 2009. The claimant personally appeared and provided testimony, along with her boyfriend, [REDACTED]. The record was left open until October 29, 2009, to allow the department to submit further information.

ISSUE

Did the department properly deny the claimants' Family Independence Program (FIP) application in September, 2009 for Work First/Jobs, Education and Training (WF/JET) program noncompliance?

FINDINGS OF FACT

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

1. On June 10, 2009, [REDACTED] was evaluated by a physician. The physician

completed a Medical Needs form (DHS-54-A) that indicated he was able to work at any job with some limitations on repetitive activity. (Department Exhibit 1 – 2).

2. The claimants applied for FIP benefits and both signed the Work and/or Self-Sufficiency Rules for Cash Recipients (DHS-1538) on August 12, 2009.

(Department Exhibit 11- 12).

3. The claimants were required to participate collectively for 55 hour per week.

(Department Exhibit 5, 8).

4. On August 12, 2009, both claimants were mailed a JET Appointment Notice, scheduling them for orientation on August 17 – August 24, 2009. (Department Exhibit 14 – 15).

5. Both claimants attended orientation. (Department Exhibit 5, 8).

6. On August 31, 2009, [REDACTED] did not attend WF/JET. (Department Exhibit 3).

7. On or about August 28, 2009, Community Mental Health Services of Gratiot County faxed WF/JET a letter from Michael Hart, a social worker, which indicated he was writing the letter for [REDACTED] requesting permission for him to be excused from WF/JET attendance. (Department Exhibit 10).

8. This letter was not accepted as documentation of a deferral as the writer was not a physician and the previous June 10, 2009, physician statement indicated [REDACTED] could work with some limitations. (Department Exhibit 4, 10).

9. The claimants' application was denied for failure to cooperate with WF/JET requirements on September 3, 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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM).

Department policy states:

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

A Work Eligible Individual (WEI), see BEM 228, who fails, without good cause, to participate in employment or self-sufficiency-related activities, must be penalized.

See BEM 233B for the Food Assistance Program (FAP) policy when the FIP penalty is closure. For the Refugee Assistance Program (RAP) penalty policy, see BEM 233C. BEM 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 related to assigned activities.
 - .. Provide legitimate documentation of work participation.
 - .. 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. BEM 233A, pp. 1-2.

NONCOMPLIANCE PENALTIES AT APPLICATION

Noncompliance by a WEI while the application is pending results in **group** ineligibility. A WEI applicant who refused employment without good cause, within 30 days prior to the date of application or while the application is pending must have benefits delayed. See “**Benefit Delay for Refusing Employment**” below.

Noncompliance is defined by department policy as failing or refusing to do a number of activities, such as attending and participating with WF/JET, completing the FAST survey, completing job applications, participating in employment or self-sufficiency-related activities, providing legitimate documentation of work participation, etc. BEM 233A. In this case, the claimants dispute that [REDACTED] was noncompliant.

The claimants testified that they both attended WF/JET on the morning of August 31, 2009, but that Mr. Langdon (WF/JET Case Manager) told them that he had received the fax from Gratiot County Community Mental Health and that [REDACTED] did not have to attend WF/JET because of the letter. The claimants testified that they called Mr. Langdon from the front telephone and were informed by Mr. Langdon that [REDACTED] should go home. The claimants indicate that [REDACTED] is not noncompliant if Mr. Langdon told him to go home.

The record was left open to allow the department to provide a statement from Mr. Langdon, as he was not present for the hearing. The statement submitted to this Administrative Law Judge from Mr. Langdon indicates that both [REDACTED] and [REDACTED] came to the office on the morning of August 31, 2009. The statement indicates that he did meet with them and that he told both of them the letter was not sufficient to defer [REDACTED] from

WF/JET. Mr. Langdon states that he never told [REDACTED] to leave for the day (Department Exhibit 16).

Therefore, if Mr. Langdon told the claimants that the letter was not sufficient to support a deferral, as it was not from a medical doctor as required by policy, he would not have told [REDACTED] to go home. [REDACTED] would have been expected to keep attending and participating with WF/JET. As [REDACTED] did not stay and participate with WF/JET, this Administrative Law Judge does find that he was noncompliant with WF/JET requirements.

Department policy indicates that when a group member is noncompliant with WF/JET requirements during the pendency of the application, the action results in group ineligibility. Thus, the department denied the claimants' application.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department properly determined the claimant was noncompliant with WF/JET program requirements and properly denied the claimants' application.

Accordingly, the department's actions are UPHELD. SO ORDERED.

/s/ _____
Suzanne L. Keegstra
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: December 15, 2009

Date Mailed: December 21, 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.

SLK 

cc:

