

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: 2009-4138

Issue No: 1021

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

February 18, 2009

Saginaw County DHS

ADMINISTRATIVE LAW JUDGE: Tyra L. Wright

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 February 18, 2009. Claimant and her [REDACTED] community mental health worker personally appeared and testified. The Department of Human Services (Department) was represented by a family independence manager, a Department JET worker, and a case manager. Five JET program workers also appeared and testified.

ISSUE

Did the Department act properly in sanctioning Claimant by closing her Family Independence Program (FIP) case for three months due to failure to attend the Jobs, Education and Training (JET) program?

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 is a FIP recipient.
- (2) Claimant was required to participate in the JET/Work First program (Exhibit 1, Work and/or Self-Sufficiency Rules for Cash Benefits).
- (3) On [REDACTED], Claimant was exited from the Work First Advanced Job Search program for disruptive behavior when she refused to tell the JET receptionist her first name when asked for her full name.
- (4) On [REDACTED], the Department scheduled a triage meeting for [REDACTED] at [REDACTED] to allow her the opportunity to establish good cause for her behavior at the JET office.
- (5) Claimant went to the JET office to give some documentation to her JET worker. Claimant explained the following: When she arrived, the receptionist asked for her name and she responded, [REDACTED]. Then the receptionist asked for her full name. Claimant then repeated [REDACTED]. Another JET worker then approached her and told her “you are rude. We don’t like your kind around here.” Claimant contends that she asked, “What kind is that?” and the worker responded, “the bitchy kind.” Claimant then told the JET worker “I don’t really like the stink-hoe kind either.” (Exhibit 5).
- (6) The JET worker denies that she told Claimant that “her kind was not wanted” and that she called Claimant “bitchy.”

(7) The JET worker asked supervisors for assistance, claiming that Claimant followed her when she walked away. In response, two JET supervisors intervened and Claimant was asked to leave the office.

(8) Claimant asserted at the hearing that she did not offer her full name because the JET case worker that she went to the office to see knew her by her last name.

(9) The Department found no good cause for Claimant's behavior at the JET office on [REDACTED] and also found Claimant's behavior at the triage meeting to be inappropriate.

(10) Because Claimant had a first noncompliance within five months of the incident at the JET office on [REDACTED], the Department considered the incident to be her second noncompliance. (See Exhibit 2, pg. 2).

(11) Claimant disagreed with the Department's decision to sanction her for three months on the grounds that she followed all the rules of the JET program, the JET worker instigated the rudeness, that the JET supervisor considered her a convicted felon who was not going to get a job, and that she did not receive a fair triage meeting because the JET workers lied at the meeting. (See also Exhibit 5).

(12) The Department received Claimant's hearing request on November 3, 2008. (Exhibit 5).

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 (formerly known as the Family Independence Agency) 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 for FIP are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

DEPARTMENT POLICY

FIP, RAP Cash

Federal and State laws require each work eligible individual (WEI) in the FIP and RAP group to participate in the Jobs, Education and Training (JET) Program or other employment-related activities unless temporarily deferred or engaged in activities that meet participation requirements. These clients must participate in employment and/or self-sufficiency related activities to increase their employability and obtain stable employment. (PEM 230A, pg. 1)

NONCOMPLIANCE PENALTIES FOR ACTIVE FIP CASES AND MEMBER ADDS

The penalty for noncompliance without good cause is FIP closure. Effective April 1, 2007, the following minimum penalties apply:

- For the first occurrence on the FIP case, close the FIP for not less than three calendar months unless the client is excused from the noncompliance as noted in First Case Noncompliance Without Loss of Benefits below.
- For the second occurrence on the FIP case, close the FIP for not less than three calendar months.
- For the third and subsequent occurrence on the FIP case, close the FIP for not less than 12 calendar months. (PEM 233A, pg. 6)

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CLIENT OR AUTHORIZED REPRESENTATIVE RESPONSIBILITIES

Responsibility to Cooperate

All Programs

Clients must cooperate with the local office in determining initial and ongoing eligibility. This includes completion of necessary forms. See “**Refusal to Cooperate Penalties**” in this section.

Clients must completely and truthfully answer all questions on forms and in interviews.

The client might be unable to answer a question about himself or another person whose circumstances must be known. Allow the client at least 10 days (or other timeframe specified in policy) to obtain the needed information.

Clients must also cooperate with local and central office staff during quality control (QC) reviews. (PEM 105, pg. 5)

Under PEM 233A, the penalty for a second occurrence of noncompliance on a FIP case is closure for not less than three calendar months. In this case, Claimant is accused of disruptive behavior resulting her being exited from JET. Although PEM 105 refers to a client's responsibility to cooperate with the Department, it is reasonable to extend that responsibility to cooperating with JET program workers.

The JET receptionist's request that Claimant identify herself by her first and last name was a reasonable request with a business purpose. Claimant consciously refused to cooperate when she failed to provide the worker with her first and last name. That alone was disruptive to the efficient operation of the JET office. But for Claimant's refusal to identify herself by her first and last name, whatever exchange she had with other office workers would not have taken place. As a result, Claimant set in motion the chain of events that led to her being exited from JET. Under these circumstances, it is found that the Department properly found her in noncompliance as a result of being exited from the JET program.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department properly sanctioned Claimant by closing the FIP case for three months.

Accordingly, the Department's action is AFFIRMED.

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

Date Signed: February 23, 2009

Date Mailed: March 2, 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 receipt 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.

TLW/cv

cc:

