

[REDACTED]

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.: 2009-7558

Issue No.: 1005

Case No.: [REDACTED]

Load No.: [REDACTED]

Hearing Date:

February 11, 2009

Macomb County DHS [REDACTED]

ADMINISTRATIVE LAW JUDGE: Michael J. Bennane

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9; MSA 16.409 and MCL 400.37; MSA 16.437 upon the Claimant's request for a hearing. After due notice a telephone hearing was held on February 11, 2009. The Claimant personally appeared and testified.

ISSUE

Did the Department properly move to close the Claimant's Family Independence Program (FIP)?

FINDINGS OF FACT

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

1. Claimant is a FIP recipient and excused from work related activity while her disability is pending..

2. The Department found the Claimant in noncompliance after a November 13, 2008 triage with [REDACTED], the Claimant's partner, and a finding of no good cause for his noncompliance with JET.
3. On November 25, 2008, the Department notified the Claimant that her FIP was to be cancelled on December 9, 2008.
4. On December 2, 2008, the Claimant filed a request for a hearing.

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 are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

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:

Do not apply the three or 12 month penalty to ineligible caretakers, clients deferred for lack of child care (DC) and disqualified aliens. Failure to complete a FAST or FSSP results in closure due to failure to provide requested verification. Clients can reapply at any time.

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.

FIS should clear the FAST Fall Out Report and any FAST confirmation information the client has obtained before considering a client noncompliant for FAST non-completion.
- Develop a Family Self-Sufficiency Plan (FSSP) or a Personal Responsibility Plan and Family Contract (PRPFC).

FIS must have scheduled a FSSP completion appointment with the client and the client failed to attend before considering a client noncompliant for FSSP non-completion.
- Comply with activities assigned on the Family Self Sufficiency Plan (FSSP).
- Provide legitimate documentation of work participation.
- Appear for a scheduled appointment or meeting related to assigned activities.
- 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. (PEM233A, pp. 1-2)

In the instant case, the Claimant is deferred from work related activities. She and [REDACTED] [REDACTED] are the parents of a disabled child. The Claimant is unable to care for her disabled child because she is also disabled. [REDACTED] must provide care for his child.

Care of a Spouse or Child with Disabilities

An adult recipient who provides care for a spouse or child with disabilities living in the home is not a WEI and is not referred to JET if:

- . The individual with disabilities lives with the caretaker; and
- . The individual with disabilities:
 - .. Is a recipient of SSI/RSDI due to disability or blindness; or
 - .. A doctor verifies all of the following in writing or by using a DHS-54A, Medical Needs form:
 - The disability of the spouse/child needing care and the extent and duration of the disability.
 - The spouse/parent is needed in the home to provide care.
 - The spouse/parent cannot engage in an employment-related activity due to the extent of care required. (PEM 230A, p. 18)

There is no disagreement about the fact that the child is disabled or that the Claimant herself is unable to provide care for the couple's child. In the instant case, [REDACTED] is not considered a WEI therefore should not have been referred to JET.

The Department erred in referring him to JET and therefore erred in finding him and the Claimant in noncompliance, and proposing to close the Claimant's FIP.

DECISION AND ORDER

The Administrative Law Judge based on the above findings of fact and conclusions of law, REVERSES AND ORDERS the Department to remove the closure from the Claimant's FIP.

_____/s/_____
Michael J. Bennane
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 03/12/09

Date Mailed: 03/12/09

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.

MJB/jlg

cc:

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