

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: 2009-9787

Issue No: 1038

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

February 18, 2009

Macomb 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 February 18, 2009. The claimant personally appeared and testified. The record was left open until February 28, 2009, to allow the claimant to submit evidence of her FAST confirmation.

ISSUE

Did the department properly terminate the claimant's Family Independence Program (FIP) benefits in October 2008?

FINDINGS OF FACT

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

1. The claimant was receiving FIP benefits in September 2008, when the department noticed that the claimant had not completed her Family Automated Screening Tool (FAST) online survey.

2. The claimant was sent a Notice of No Show/No Call Noncompliance (DHS-2443) on September 25, 2008, indicating that the claimant had not completed the FAST questionnaire. The form told her how to complete the survey and informed her that if she wanted to have a meeting to discuss her reasons for not completing the survey, she could call and set up an appointment or telephone conference by October 7, 2008 (Department Exhibit 1A).

3. The claimant did not contact the department about the FAST survey completion.

4. The department found the claimant did not have good cause for failing to complete the FAST survey (Department Exhibit #2).

5. The claimant's FIP benefit case was closed on October 8, 2008, for noncompliance (Department Exhibit #3).

6. The claimant testified that she had completed her FAST survey previously and testified she had the confirmation number, although not with her at the hearing.

7. This Administrative Law Judge left the record open until February 27, 2009, to allow the claimant to provide her confirmation number showing her completion of the FAST survey to the department, who would then fax it to this Judge.

8. The department representative indicated that the claimant did call the office on February 24, 2009, and provided a number she claimed was her verification number for the completion of the FAST survey. The department representative referred the confirmation number to Lansing staff to check for the information. The number was not a confirmation number for FAST survey completion at all. Further, the Lansing staff could not verify any completion of the survey by the claimant (Department Exhibit #4).

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 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 PEM 228, who fails, without good cause, to participate in employment or self-sufficiency-related activities, must be penalized.

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.

GOOD CAUSE FOR NONCOMPLIANCE

Good cause is a valid reason for noncompliance with employment and/or self-sufficiency-related activities that are based on factors that are beyond the control of the noncompliant person. A claim of good cause must be verified and documented for member adds and

recipients. Document the good cause determination on the DHS-71, Good Cause Determination and the FSSP under the “Participation and Compliance” tab.

See “School Attendance” PEM 201 for good cause when minor parents do not attend school.

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 3 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 3 calendar months.
- . For the third and subsequent occurrence on the FIP case, close the FIP for 12 calendar months.
- . The penalty counter also begins April 1, 2007 regardless of the previous number of noncompliance penalties.

TRIAGE

JET participants will not be terminated from a JET program without first scheduling a “triage” meeting with the client to jointly discuss noncompliance and good cause. Locally coordinate a process to notify the MWA case manager of triage meetings including scheduling guidelines.

Clients can either attend a meeting or participate in a conference call if attendance at the triage meeting is not possible. If a client calls to reschedule an already scheduled triage meeting, offer a phone conference at that time. Clients must comply with triage requirement within the negative action period.

When a phone triage is conducted for a first noncompliance and the client agrees to comply, complete the DHS-754, First Noncompliance Letter, as you would complete in a triage meeting. Note in the client signature box “Client Agreed by Phone”. Immediately send a copy of the DHS-754 to the client and phone the JET case manager if the compliance activity is to attend JET.

Determine good cause based on the best information available during the triage and prior to the negative action date. Good cause may be verified by information already on file with DHS or MWA.

If the FIS, JET case manager, or MRS counselor do not agree as to whether “good cause” exists for a noncompliance, the case must be forwarded to the immediate supervisors of each party involved to reach an agreement.

DHS must be involved with all triage appointment/phone calls due to program requirements, documentation and tracking.

Note: Clients not participating with JET must be scheduled for a “triage” meeting between the FIS and the client. This does not include applicants. PEM 233A, p. 7.

Good Cause Established

If the client establishes good cause within the negative action period, do **NOT** impose a penalty. See “Good Cause for Noncompliance” earlier in this item. Send the client back to JET, if applicable, after resolving transportation, CDC, or other factors which may have contributed to the good cause. Do not enter a new referral on ASSIST. Enter the good cause reason on the DHS-71 and on the FSSP under the “Participation and Compliance” tab.

Good Cause NOT Established

If the client does NOT provide a good cause reason within the negative action period, determine good cause based on the best information available. If no good cause exists, allow the case to close. If good cause is determined to exist, delete the negative action. PEM 233A, pp. 10-11.

In this case, the claimant testified that she had completed the FAST survey, possibly back in July, 2008. The claimant testified that she had received a confirmation number for her completion and just didn’t have it with her at the hearing. The record was left open for her to submit the confirmation number to her worker to provide to this Judge. The claimant did call the worker with a supposed confirmation number on February 24, 2008. However, when the worker called Lansing with the number provided by the claimant, she was told that it was not a FAST confirmation number at all and that there was no record of the claimant ever completing the

FAST survey. Thus, this Administrative Law Judge finds that the claimant did fail to complete the FAST survey as required.

Per departmental policy, failure to complete the FAST survey is an instance of noncompliance. The claimant was notified by the department on September 25, 2008, that she had failed to complete the FAST survey. The document explained to her where to find the FAST survey and how to complete it. It also instructed her to call or make an appointment by October 7, 2008, to discuss any good cause she had for not completing the form. She did not contact the department or provide any good cause for the noncompliance. Departmental policy requires the department to close the FIP case for 3 calendar months for the first instance of noncompliance.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department did properly terminate the claimant's FIP benefits in October 2008 for failing to complete the FAST survey.

Accordingly, the department's action is AFFIRMED. SO ORDERED.

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

Date Signed: March 9, 2009

Date Mailed: March 10, 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 [REDACTED]

cc: [REDACTED]