

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: 2010-1334
Issue No: 1038
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
November 24, 2009
Washtenaw County DHS

ADMINISTRATIVE LAW JUDGE: Jana B. Bachman

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, an in-person hearing was held on November 24, 2009. Claimant was represented by [REDACTED]

ISSUE

Whether the Department of Human Services (DHS) properly determined that claimant has not complied with self-sufficiency-related activities requirements.

FINDINGS OF FACT

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

(1) August 20, 2009, claimant was scheduled for triage to determine good cause of failure to comply with self-sufficiency-related activities requirements. Claimant attended the

interview and stated that she was now employed. Claimant was granted good cause. Department Exhibit A, pg 2.

(2) August 24, 2009, claimant telephoned the [REDACTED] to state that she does not have anything that would verify her employment. Claimant was reminded that she has history of not sticking to deadline and was due to submit employment proofs on 8/20/09. Claimant was given until 5:00 p.m. to provide some type of proof that she was employed, Department Exhibit A, pg 2. August 26, 2009, a triage was requested by the [REDACTED] [REDACTED] as claimant had not verified her employment. Claimant had reported that she would receive a paycheck on August 20, 2009. Claimant did not provide a copy of the paycheck and did not return a completed employment form. Department Exhibit A, pg 2. September 3, 2009, a triage was held. Claimant did not appear for the triage. Department Exhibit A, pg 2.

(3) September 9, 2009, the [REDACTED] terminated claimant due to noncompliance. Department Exhibit A, pg 2.

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).

The Family Independence Program (FIP) is a temporary cash assistance program to support a family's movement to self-sufficiency. Recipients of FIP engage in employment and self-sufficiency-related activities so that they can become self-supporting.

Federal and state laws require each work eligible individual (WEI) in the FIP group to participate in Jobs, Education and Training (JET) program or other employment service unless temporarily deferred or engaged in activities that meet participation requirements. Bridges Eligibility Manual (BEM) 230A; MCL 400.57f; Rehabilitation Act of 1973 (Section 504); Americans with Disabilities Act of 1990; Michigan Persons with Disabilities with Civil Rights Act.

DHS requires clients to participate in employment and self-sufficiency-related activities and to accept employment when offered. Focus is to assist clients in removing barriers so they can participate in activities that 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 insure that barriers to such compliance have been identified and removed. The goal is to bring the client into compliance.

Depending on a case situation, penalties include the following:

- Delay in eligibility at application.
- Ineligibility (denial or termination of FIP with no minimal penalty).
- Case closure for a minimum of 3 or 12 months.

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 JET program or other service provider.
- .. Complete a family automated screening tool as assigned as the first step in the FSFC process.
- .. Develop a family self-sufficiency plan (FSFP).
- .. Comply with activities assigned on the FSFP/
- .. Provide legitimate documentation of work participation.
- .. Appear for a scheduled appointment or a 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.
- .. State orally or in writing a definite attempt not to comply with program requirements.
- .. Threatening, physically abusing or otherwise behaving disruptedly toward anyone conducting or participating in an employment and/or self-sufficiency-related activity.
- .. Refusing employment support services if the refusal prevents participation in employment and/or self-sufficiency-related activity.

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 non-compliance person. A claim of good cause must be verified and documented for member adds and recipients.

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 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 not less than 3 calendar months.
- For the third and subsequent occurrence on the FIP case, close the FIP for not less than 12 calendar months.

If the noncompliant client meets or if a phone triage is held with a Department Manager and/or the JET case manager and a decision regarding the noncompliance is no good cause, the department may offer claimant the opportunity to comply. If claimant accepts the offer to comply, agrees with the department's decision of noncompliance without good cause, and completes the required components to be considered in compliance, claimant's noncompliance is excused but not erased. Bridges Eligibility Manual (BEM) 233A; MCL 400.57G; 42 USC 607.

In this case, claimant did not comply with JET work and self-sufficiency requirements. Claimant failed to attend a scheduled triage. At hearing, claimant credibly testified that she could provide proof that she had called the DHS number on September 3. The department credibly testified that, although claimant had until September 9 to call to reschedule the triage meeting, they did not hear from claimant. As such, a preponderance of the evidence establishes that claimant called a department number but did not speak to an appropriate person to reschedule her triage. Accordingly, the department has met its burden of proof and its action must be upheld. Finding of Fact 1-3.

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 properly determined that claimant did

not participate in employment and self-sufficiency-related activities as required to qualify for the Family Independence Program.

Accordingly, the department's action is, hereby, UPHELD.

/s/

Jana A. Bachman
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: January 8, 2009

Date Mailed: January 15, 2010

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.

JAB/db

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