

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Reg No. 201026577
Issue No. 1038
Case No. [REDACTED]
Load No. [REDACTED]
Hearing Date: May 26, 2010
Kalamazoo County DHS

ADMINISTRATIVE LAW JUDGE: Carmen Fahie

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the claimant's request for a hearing. After due notice, an in-person hearing was held on Wednesday, May 26, 2010. The claimant appeared and testified with her significant other [REDACTED] as a witness.

ISSUE

Did the department act in accordance with department policy when it took action to close the claimant's Family Independence Program (FIP) case and decrease the claimant's Food Assistance Program (FAP) benefits due to the claimant's refusal to participate with the required Jobs, Education, and Training (JET) activities?

FINDINGS OF FACT

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

1. The claimant was a recipient of FIP and FAP benefits which required her to work or look for work for 40 hours per week. (Department Exhibit A-2)
2. On January 19, 2010, the claimant called her DHS caseworker stating that she was starting a babysitting job where verification of employment was sent out. (Department Exhibit 1)

3. On February 5, 2010, the claimant's JET caseworker sent her a noncompliance letter stating that the claimant had failed to submit time sheets, job search logs, or verification of employment. In addition, the claimant may reengage in the program by attending a job search presentation on two different Thursday's from 9:00 – 10:00 a.m. If the claimant does not attend the job search by Friday, February 12, 2010, the claimant will be placed in triage status. (Department Exhibits A-1, 3)
4. On February 5, 2010, the JET caseworker submitted a progress note on the claimant that the claimant did not meet eligibility requirements because her babysitting job only pays her [REDACTED] every two weeks that would not meet JET requirements. (Department Exhibit 5-8)
5. On February 17, 2010, the claimant was given a second triage because the claimant failed to meet JET requirements and a triage would be held on February 23, 2010. (Department Exhibit 3)
6. On February 24, 2010, the claimant was sent a notice of noncompliance by her DHS caseworker requiring her to attend an appointment on March 2, 2010 at 2:00 p.m. and that this was the first or second time a member of your household composition was noncompliant. (Department Exhibit 8)
7. On March 2, 2010, the JET caseworker terminated the claimant's JET case due to the second triage where no good cause was found and the file was processed for termination. (Department Exhibit 3)
8. On March 2, 2010, the department caseworker sent the claimant a notice that her cash assistance was going to be closed as a result of you or a group member for a second time failing to participate in employment and/or self-sufficiency-related activities or you quit a job, were fired, or reduced your hours of employment without good cause. The claimant's FIP case must remain closed for at least three (3) months. The claimant's group cannot get benefits from April 1, 2010 through June 30, 2010 where the claimant is eligible to reapply during the last month of the penalty period. (Department Exhibit B-F)
9. On March 15, 2010, the department received a hearing request from the claimant, contesting the department's negative action, which resulted in the claimant's negative being deleted pending the hearing decision.

10. During the hearing, the claimant stated that she did not receive the letter dated February 5, 2010 from her JET caseworker stating that she should reengage.
11. This Administrative Law Judge notes that the claimant's address is [REDACTED] and not [REDACTED] as stated in the DHS records, but the February 5, 2010 Michigan Works JET noncompliance letter telling the claimant to reengage by February 12, 2010 was sent to the 722 Buchanan address that the claimant states that she did not receive.
12. On May 26, 2010, the department caseworker reviewed the client log for March 2, 2010 to verify that the claimant did not sign the appointment log on March 2, 2010.

CONCLUSIONS OF LAW

The Food Assistance Program (FAP) (formerly known as the Food Stamp (FS) program) is established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations (CFR). The Department of Human Services (DHS or department) administers the FAP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3001-3015. 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) 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 department policy manuals provide the following relevant policy statements and instructions for caseworkers:

DEPARTMENT PHILOSOPHY

FIP, RAP Cash

Clients must be made aware that public assistance is limited to 48 months to meet their family's needs and that they must take personal responsibility to achieve self-sufficiency. This message, along with information on ways to achieve independence, direct support services, non-compliance penalties, and good cause reasons, is initially shared by

DHS when the client applies for cash assistance. Jobs, Education and Training (JET) program requirements, education and training opportunities, and assessments will be covered by the JET case manager when a mandatory JET participant is referred at application. PEM 229, p. 1.

Jobs and Self-Sufficiency Survey

At application, the registration support staff must provide clients with a DHS-619, Jobs and Self-Sufficiency Surgery. Family Independence Specialists (FIS) must do all of the following:

- . Review the survey during the intake interview to make a preliminary barrier assessment determination regarding readiness to refer to JET.
- . **Note:** Be alert to indicators that the client or family members suffer from undisclosed or undiagnosed disabilities. Some disabilities diminish the individual's ability to recognize or articulate their needs or limitations.
- . Identify and provide direct support services as appropriate.
- . Open the Family Self-Sufficiency Plan (FSSP) and enter strength and barrier information identified and addressed during the intake process. PEM 229, p. 1.

Work and Self-Sufficiency Rules

Use the DHS-1538, Work and Self-Sufficiency Rules to explain all of the following to clients at FIP application:

Provide a brief overview of the Work and Self-Sufficiency Rules, once, for each episode of assistance. At a minimum explain direct support services opportunities, work requirements, self-sufficiency requirements, penalties for non-compliance, transportation, child care, earnings or activity reporting and verification requirements, and domestic violence.

The DHS-1538 must be reviewed and signed by all adult applicants and member adds including:

- . Minor parent grantees.
- . Adult member adds.
- . Dependent children age 16 or 17 who are not attending elementary or secondary school full time.
- . Ineligible grantees.

Note: Mail the DHS-1538 to 16 and 17 year old dependent children for completion rather than requiring a signature in person. The grantee is ultimately responsible for the child's compliance. PEM 229, pp. 1-2.

Timing of JET Referral

Mandatory JET clients must be sent to JET upon application for FIP. Do not send any others to JET at application, unless a deferred client volunteers to participate. All JET referrals must be sent through ASSIST. ASSIST will generate an automated DHS-2439, Michigan Works Referral to the Michigan Works! Agency's (MWA's) Management Information System (MIS) upon completion of the initial interview in ASSIST. Clients can reapply for FIP at any time after their application is denied for failing to appear or participate with JET.

FAST and FSSP Notice

All clients including mandatory JET participants will receive an automated notice upon completion of the initial interview in ASSIST.

JET Appointment Notice and JET Attendance Requirements

Exception: Use the DHS-4785, JET Appointment Notice at **application** to schedule an appointment for each mandatory JET participant. Include the date, time and location to appear for their JET assignment. When assigned, clients must engage in and comply with all JET assignments while the FIP application is pending. JET engagement is a condition of FIP eligibility. PEM 229, p. 2.

Failure by a client to participate fully in assigned activities while the FIP application is pending will result in denial of FIP benefits, if upon the day of case processing the client is in noncompliance with JET. Use ASSIST denial code 463 and CIMS denial code 210 for clients denied FIP benefits for noncompliance while the application is pending. Retain a copy of the appointment notice in the case record. Do not penalize Food Assistance when a client fails to attend JET as a condition of eligibility when the noncompliant person is not active FIP on the date of the noncompliance. Clients must be active FIP to apply a FIP penalty to the FAP case.

Exception: You must manually provide ineligible grantees and Disqualified Aliens a DHS-1535, FAST Notice, at intake or at review if not completed during the intake process. Enter the FAST notice date on the Family Self-Sufficiency Plan (FSSP) for tracking purposes. PEM 229, p. 2.

LEGAL BASE

FIP

MCL 400.57, et. seq.

In the instant case, the claimant found a job babysitting that paid her [REDACTED] per week or [REDACTED] bi-weekly. The claimant is a participant in the JET program and knows that she must work or look for work for 40 hours per week with at least the minimum wage. The claimant's babysitting job did not pay her minimum wage, so she would be required to look for work the additional hours to makeup the 40 hours. The claimant did not do so even after a February 5, 2010 letter from her JET caseworker stating that she was noncompliant and to reengage by February 12, 2010. The claimant testified during the hearing that she did not receive the letter, but the letter was sent to her correct address.

Therefore, this Administrative Law Judge determines that the department was established by the necessary, competent, material, and substantial evidence on the record that it was acting in compliance with department policy when it determined that the claimant failed to work or look for work for 40 hours per week in order to retain her FIP and FAP benefit status.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department did act in accordance with department policy when it took action to close the claimant's FIP case and decrease the claimant's FAP benefits due to the claimant's refusal to cooperate with JET activities.

Accordingly, the department's decision is **AFFIRMED**.

/s/
Carmen Fahie
Administrative Law Judge
For Ismael Ahmed, Director
Department of Human Services

Date Signed: July 13, 2010

Date Mailed: July 13, 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 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.

CGF/VC

cc:

