

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: 2010-7072
Issue No: 1038; 3029
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
January 12, 2010
Lenawee County DHS

ADMINISTRATIVE LAW JUDGE: Ivona Rairigh

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 January 12, 2010. Claimant personally appeared and testified.

ISSUE

Did the department correctly take action to terminate claimant's Family Independence Program (FIP) and sanction her Food Assistance Program (FAP) benefits in October, 2009?

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 was a FIP and FAP recipient and a mandatory Work First/Jobs, Education and Training (WF/JET) participant when WF/JET staff requested a triage on September 17, 2009, due to her alleged failure to participate in required WF/JET activities. (Department's Exhibit 1).

2. WF/JET staff noted as the reason for the triage that the claimant was short job search log hours due August 24, August 31 and September 8, 2009, as she was not getting 20 hours of job search. Claimant was required to perform 20 hours of job search and to attend school for additional 10 hours, for a total of 30 weekly required hours of WF/JET activity participation.

3. Update/View Case Notes from WF/JET staff of September 4, 2009 state that the claimant was sent new sample of a job log for hourly guidance. (Department's Exhibit 2).

4. On September 29, 2009, department mailed the claimant a Notice of Noncompliance, DHS-2444, scheduling a triage appointment for October 7, 2009. This notice was mailed to the claimant at [REDACTED], same address she states as correct at the time of the hearing. (Department's Exhibit 6).

5. Claimant was a no call/no show for the triage appointment, and no good cause for her failure to participate in WF/JET program was found. (Department's Exhibit 8).

6. Department took action to terminate claimant's FIP benefits and sanction her FAP benefits effective November 3, 2009. Claimant requested a hearing on October 30, 2009 and department deleted FIP and FAP negative actions pending the outcome of this hearing.

7. At the hearing claimant stated she did complete required hours of WF/JET participation, and brought some paperwork to prove her claim. Record was extended in order for the department to share this paperwork with WF/JET staff and obtain their comments.

8. Department provided additional information regarding claimant's WF/JET participation following the hearing consisting of claimant's job logs for the period of time in question.

9. These logs show that for the week of August 24 thru August 30, 2009, claimant received credit for total of 22.5 hours, 10 hours for school and 12.5 job search hours. On

September 8, 2009 claimant was given credit for the previous week for 10 hours of school and 15.50 hours of job search for a total of 25.50 hours, and not given credit for 1.5 hours to “plan out day”, for 3 hours of school over 10 hours and for 3 hours of study time. On September 14, 2009, claimant was given credit for 10 hours of school and 17.75 hours of job search, for a total of 27.75.

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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (PRM).

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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (PRM).

Departmental 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

All Work Eligible Individual (WEI) and adult non-WEIs (except ineligible grantees, clients deferred for lack of child care (DC) and disqualified aliens), see PEM 228, who fail, without good cause, to participate in employment or self-sufficiency-related activities, must be penalized. Depending on the case situation, penalties include the following:

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

See BEM 233B for the Food Assistance Program (FAP) policy when the FIP penalty is closure. For the Refugee Assistance Program (RAP) penalty policy, see BEM 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. BEM 233A, pp. 1-2.

DEPARTMENT POLICY

The policies in this item are for all Food Assistance Program (FAP) applicants and recipients. Noncompliance with employment requirements for FIP (see BEM 233A) affect FAP if both programs were active on the date of the noncompliance. BEM 233B, p. 1.

When to Disqualify

- . Disqualify a FAP group member for noncompliance when:
- . The client was active both FIP and FAP on the date of the FIP noncompliance, and
- . The client did not comply with FIP employment requirements, and
- . The client is not deferred from FAP work requirements (see DEFERRALS in BEM 230B), and the client did not have good cause for the noncompliance. BEM 233B, p. 1.

Claimant is not disputing that she was a mandatory WF/JET participant, but is disputing WF/JET and department's determination that she did not complete the 30 hours of weekly required participation in this program. Documentation provided by the department clearly establishes that the claimant indeed did not complete 30 hours per week of participation, and that she was several hours short of such participation during the 3 weeks prior to the triage request.

Claimant also testified that she did not receive the triage appointment letter until 3 days after the actual appointment. Claimant further testified that she then called her old caseworker and it took her several days to get to talk to her correct worker. Claimant's triage letter was sent to the address she gave to the department and that she claims as correct at the time of the hearing. No mail has been returned for the claimant. Furthermore, the triage letter clearly spells out the name and telephone number of claimant's correct caseworker, and the fact that the claimant called the wrong caseworker is, by her own admission, due to her oversight of the triage letter contact information.

In conclusion, this Administrative Law Judge cannot find a valid reason for claimant's failure to participate in the WF/JET program as she was required to do. Claimant testified that

she did complete 30 required hours of WF/JET participation, but documentation provided by the department shows this is not so.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department correctly took action to terminate claimant's FIP benefits and sanction her FAP benefits in October, 2009.

Accordingly, department's action is AFFIRMED, and it is SO ORDERED.

/s/

Ivona Rairigh
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: February 10, 2010

Date Mailed: February 23, 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.

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