

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: 2010-7838

Issue No: 1038

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

January 28, 2010

Ingham 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 28, 2010. Claimant personally appeared and testified. Also appearing was claimant's husband [REDACTED].

ISSUE

Did the department properly take action to terminate claimant's Family Independence Program (FIP) benefits in August, 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 recipient and a mandatory Jobs, Education and Training (JET) program participant. Claimant signed a Work and/or Self-Sufficiency Rules for Cash

Recipients, DHS-1538, form on June 1, 2009, acknowledging she understood her responsibilities and JET requirements. (Department's Exhibit 15).

2. On July 31, 2009, JET staff informed claimant's caseworker that the claimant needs a triage appointment scheduled due to her alleged noncompliance with this program.

3. JET staff explained in detail that the claimant had a verbal and written warning on July 10, 2009 for noncompliance due to refusal to do community service at CM assigned agency, a 2nd written warning on July 28, 2009, for failure to punch in and out and no call/no show for job search, and that she also failed to participate in job search activities, to punch in and out, to turn in community service log weekly, and to show and/or call for job search and morning meetings. (Department's Exhibit 12).

4. Claimant was mailed a Notice of Noncompliance on August 3, 2009, scheduling a triage appointment for August 12, 2009. Claimant however happened to be scheduled for a yearly review of her case on August 3, 2009, and, since she was already at the DHS office, agreed to have the triage held on that date.

5. Claimant agreed she was noncompliant with JET without good cause and signed a First Noncompliance letter, DHS-754, on August 3, 2009, agreeing to complete 40 hours of activity starting on August 4, 2009 and through August 10, 2009. (Department's Exhibit 1).

6. On August 4, 2009 JET staff, Sara Hardman, documented that the claimant failed the compliance test, as she left Work First (WF) site over an hour ago and has not returned. (Department's Exhibit 10).

7. Department was notified of claimant's alleged compliance test failure and took action to terminate claimant's FIP benefits effective September 1, 2009. Claimant requested a hearing on August 5, 2009 and her FIP benefits continue pending the outcome of the 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 (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).

That the claimant was a mandatory JET participant is not in dispute. BEM 230A. Claimant also testified that she is not disputing that she was in noncompliance with the JET program requirements and signed the noncompliance letter on August 3, 2009, agreeing to participate in assigned activities for 40 hours starting on August 4, 2009. Claimant however states that she misunderstood that she had to be on the WF site during the 40 hours, and thought she was to check in every morning and then leave to job search. Claimant further states that she did come to WF site on August 4, 2009 and then left to job search, and that she returned on the morning of August 5, 2009 only to be told she was in noncompliance.

Claimant's DHS caseworker testified that her standard policy during triage meetings is to tell the clients they must do 40 hours of compliance test on WF site, and she therefore would have told the claimant the same.

Also present at the hearing was a Melisa Rahme, JET Program Director, LCC. Ms. Rahme states that JET policy is to see the clients on the first day of compliance test period and advise them that they must complete their assigned activities on site. Ms. Rahme further states

that Sara Hardman, staff member that was to meet with the claimant on the morning of August 4, 2009, did not do so. Furthermore, Ms. Rahme states that WF/JET records show that the claimant indeed punched in on August 4, 2009 at 8:03 am and punched out at 4:18 pm, and that on August 5, 2009 claimant punched in at 8:05 am. The procedure for outside job search is for the clients to punch in at the beginning of the day, leave for job search, and then punch in again at the end of the day. Claimant was following such procedure, and this lends credibility to her claim that she indeed thought she was to job search and not stay at WF site during her compliance test period. Additionally, WF/JET staff member Sara Hardman, who is no longer with WF, did not meet with the claimant on the morning of August 4, 2009 to explain what she had to do during the compliance test period. Ms. Rahme states that Ms. Hardman's failure to do so, if she was aware of it at an earlier date, would have resulted in the claimant not being found in violation of the compliance test.

Department voiced agreement to assign the claimant another compliance test period following the hearing. Claimant was advised that she must complete such compliance so she does not have future issues with FIP eligibility, and she indicated she would do so.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department improperly took action to terminate claimant's FIP benefits in August, 2009, due to WF/JET staff failure to advise the claimant of compliance test requirements in accordance with WF/JET procedures.

Accordingly, department's action is REVERSED. Department shall:

1. Continue claimant's FIP benefits.

2. Issue the claimant second First Noncompliance Letter specifying what she must do and the period of time she must do it in, in order to prevent a sanction/closure of her FIP benefits.

SO ORDERED.

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

Date Signed: February 11, 2010

Date Mailed: February 11, 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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