

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: 2010-23881
Issue No: 1038
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
May 26, 2010
Montmorency 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 May 26, 2010. Claimant personally appeared and testified along with her [REDACTED]

ISSUE

Did the department properly take action to terminate claimant's Family Independence Program (FIP) benefits in February, 2010?

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 and her fiancé were FIP recipients with [REDACTED] being a mandatory Jobs, Education and Training (JET) participant.

2. Update/View Case Notes indicate that [REDACTED] attended individual orientation on January 26, 2010 and has been enrolled into [REDACTED] for 35 hours a week. [REDACTED] then attended JET classes on January 27, 2010, but was ill from February 1 to 3, 2010, with JET staff receiving doctor notes verifying the illness.

3. February 5, 2010 JET note states that [REDACTED] has been put into triage on February 1, 2010 due to the fact he did not complete his required hours for the month of January, 2010, 35, but only 13.

4. A Notice of Noncompliance was mailed to [REDACTED] on February 8, 2010, with a triage appointment set for February 11, 2010, to discuss any possible good cause reason for his failure to complete assigned JET hours for January, 2010.

5. Claimant and [REDACTED] were a no show for the triage appointment and department took action to terminate the FIP grant. Claimant later stated that she did not receive the triage notice until February 16, 2010, but the department proceeded with FIP closure anyway.

6. Claimant then requested a hearing on February 25, 2010 and continues to receive FIP benefits 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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (RFT).

That [REDACTED] was a mandatory JET participant is not in dispute. BEM 230A. If a mandatory JET participant is in non-compliance with JET activities, a sanction may be imposed on benefits that are being received. BEM 233A. However, there are two issues of concern in department's action on claimant's FIP case. First one is that JET notes reveals that [REDACTED] was to complete 35 hours of participation after he attended individual orientation on January 26, 2010, a Tuesday. [REDACTED] did complete 13 hours of participation on January 26 and 27, 2010, but it appears he did not complete any JET activity on January 28 and 29, 2010, Thursday and Friday. The month of January ended on a Sunday, so it appears [REDACTED] was expected to complete the remaining 22 hours for January in two days, unless he was expected to do some type of activity on a weekend. No JET staff is present for the hearing to clarify these questions.

Second issue is that the department did not mail the triage notice until February 8, 2010 with the triage appointment date of February 11, 2010. Claimant states she did not receive this notice until February 16, 2010. This Administrative Law Judge is of the opinion that the mailing of the notice did not leave sufficient time for the claimant to receive it, and her lack of attendance at the triage is justified.

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 February, 2010.

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

1. Continue claimant's FIP benefits.

2. Evaluate [REDACTED] alleged lack of participation for total of 35 hours for the month of January, 2010, by contacting JET staff for further details of how he was to complete such hours in the short time span left in January, 2010.

3. If [REDACTED] indeed could not complete the hours assigned and JET staff explanation is deemed to justify this inability, refer [REDACTED] back to JET if he is still a mandatory participant.

4. If the conclusion is that [REDACTED] could have completed the assigned 35 hours of JET activity for January, 2010, schedule another triage appointment giving claimants ample time to receive the notice of such appointment. At the triage [REDACTED] reasons for not completing the 35 hours of assigned activities are to be addressed and good cause and/or lack of good cause to be addressed.

SO ORDERED.

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

Date Signed: June 8, 2010

Date Mailed: June 9, 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.

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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.

IR/tg

cc:

