

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: 2010-2985

Issue No: 1038

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

March 4, 2010

Genesee County DHS

ADMINISTRATIVE LAW JUDGE: Carmen G. Fahie

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 Thursday, March 4, 2010. The claimant personally appeared and testified on her own behalf with her attorney, [REDACTED], and her daughter, [REDACTED], as a witness.

ISSUE

Did the department act in accordance with department policy when it closed the claimant's Family Independence Agency (FIP) case due to the claimant's refusal to cooperate 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 as material fact:

(1) The claimant was a recipient of FIP benefits which required her to work or look for work for 40 hours per week and participate in the JET program.

(2) On July 1, 2008, the work requirements of JET were explained to the claimant where she completed and signed a Jobs and Self-Sufficiency Survey, DHS-619, and the Work and Self-Sufficiency Rules for Cash Recipients, DHS-1538. (Department Exhibit 1)

(3) On August 10, 2009, the JET worker provided case notes that stated that the claimant was to return to [REDACTED] in order to restart her time after a triage error, but the claimant had not done so from July 9, 2009. In addition, the claimant was supposed to submit documentation through fax to the JET worker and her DHS worker about her son being shot in [REDACTED]. (Department Exhibit C)

(4) On August 14, 2009, the claimant's file was placed in triage. (Department Exhibit C)

(5) On August 14, 2009, the claimant called her JET caseworker stating that she had the papers from [REDACTED] in regards to her son, but also stated that her other son had to go to the hospital. The claimant stated that she had been trying to get everything together. The JET caseworker informed the claimant that she needed to contact her DHS worker and submit all documentation to her DHS caseworker. (Department Exhibit C)

(6) On August 19, 2009, the claimant was found to be in noncompliance with JET activities and a Notice of Noncompliance, DHS-2444, was sent to the claimant that required her to attend a triage on August 27, 2009 at 9:00 a.m. where it was first or second time a member of the claimant's FIP group was noncompliant. (Department Exhibit 6)

(7) On August 26, 2009, the claimant's husband contacted the caseworker about the triage appointment where it was explained to him that the appointment was for his wife, not him.

A return call was made to the claimant where it was explained to the claimant about the appointment change and that she needed to attend and bring supporting documentation to the appointment. (Department Exhibit 7)

(8) The claimant failed to keep the triage appointment on August 27, 2009.

(9) On September 2, 2009, the department caseworker sent the claimant a notice that her FIP case would close stating that for a second time you or a member of her group failed to participate in employment and/self-sufficiency activities. The claimant would not be eligible for benefits from October 1, 2009 through December 31, 2009 where the claimant would be entitled to reapply during the last month of her penalty period. (Department Exhibit 8)

(10) On October 6, 2009, the department received a hearing request from the claimant, contesting the department's negative action.

(11) During the hearing, the claimant stated that she did not receive the triage letter requiring her to attend the triage meeting on August 27, 2009. The claimant stated that she did receive the August 19, 2009 letter that stated that the triage appointment was August 25, 2009.

(12) During the hearing, the claimant stated that all her absences from JET were excused as a result of family emergencies, but she did not have any written documentation so the record was left open for the claimant to provide written documentation of the excused absences.

(13) On March 22, 2010, the department caseworker submitted a letter to the Administrative Law Judge (ALJ) where there were no attendance sheets available because the claimant was not in attendance for the dates which were in question. The department caseworker also inquired about any documentation that they may have regarding a request by the claimant to be deferred from participation and JET determined that they had nothing at the Human Investment (HIDC) which is where the claimant was referred to JET. (Department Exhibit F)

(14) On March 23, 2010, the claimant's attorney submitted a letter to the department stating that the claimant had been granted leave from her attendance for the JET program activities from the end of July 2009 until early in mid August 2009 where the claimant had been participating in an adult literacy program offered by the Christ Enrichment Center (CEC) in Flint. The claimant had been referred to that program by her worker at an agency GCCARD.

- In addition, the claimant's attorney submitted documentation that the claimant's son was in the hospital from [REDACTED] to [REDACTED]. (Department Exhibit 50-59)
- The claimant also had excuses from the literacy center which is the literacy program that she was sent to, but the ALJ notes that is not the JET program nor was this a DHS caseworker.
- In addition, there was a letter from [REDACTED] dated [REDACTED] requesting excuses for the claimant for [REDACTED] to [REDACTED] because of her son's hospitalization. Once again this ALJ notes that is a request by the hospital that was not sent or submitted to the department or to JET giving the claimant an excuse.
- On March 15, 2010 a homeless coordinator from GCCARD stated that she got a fax that was not addressed to her where she was under the impression that the claimant failed to do as instructed of her. However, at a later date it was brought to her attention that the fax was the claimant's excuse. Please take this letter as sufficient documentation for the claimant.

(15) On April 30, 2010, the department caseworker responded with a letter to this Administrative Law Judge stating that she was in receipt of the claimant's attorney information and that it was the first time that she had seen any of these documents. The department caseworker stated that she had asked the claimant repeatedly to submit documentation to support her reasons for not complying with her JET activities and the claimant failed to provide anything. The department caseworker could not ascertain when the documents were submitted as many of them were not dated, stamped received, or were written after the date of the claimant's noncompliance. GCCARD is the agency that was in charge during the claimant's noncompliance

and GCCARD did not have any of the documentation in their possession to support the claimant's absence from the program nor had it been noted in the case notes that the claimant had ever submitted the documentation requesting to be excused from participation even though she was asked repeatedly to submit documentation to her JET case manager at GCCARD and her DHS caseworker. GCCARD was the JET agency monitoring the claimant during the time of the noncompliance not HIDC. HIDC took over for GCCARD in October 2009. (Department Exhibit Z)

(16) On May 7, 2010, the claimant's attorney submitted a final response on the case reiterating the claimant's position. (Department Exhibit 100-106)

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 department's policy manuals provide the following relevant policy statement and instructions for caseworkers:

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

A Work Eligible Individual (WEI), see PEM 228, who fails, without good cause, to participate in employment or self-sufficiency-related activities, must be penalized.

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

DEPARTMENT PHILOSOPHY

DHS requires clients to participate in employment and/or self-sufficiency-related activities and to accept employment as required. There are consequences for a client who refuses to participate in employment and/or self-sufficiency-related activities or refuses to accept employment without good cause.

DEPARTMENT POLICY

The policies in this item are for all Food Assistance Program (FAP) applicants and recipients. Noncompliance with employment requirements for FIP (see PEM 233A) affect FAP if both programs were active on the date of the noncompliance. PEM 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 PEM 230B), and the client did not have good cause for the noncompliance. PEM 233B, p. 1.

In the instant case, the claimant claimed to have two family emergencies, but failed to provide the required written documentation to the department and her JET caseworker. The claimant had repeated noncompliances, but the last incident she was written up for was on August 14, 2009. In addition, the claimant failed to attend her triage appointment on August 27, 2009. The JET caseworker and the DHS caseworker did not have any written documentation about the claimant's family emergencies as is required by JET policy. The claimant had been told repeatedly to provide the information and still did not provide any information. Furthermore, the claimant came to the hearing and still did not have the written documentation.

Even though the claimant's attorney subsequently provided the documentation on March 23, 2010, there was no documentation that that information had ever been provided to the JET caseworker or to the DHS caseworker. The claimant's literacy program provided her with an excuse, but there is no documentation that that information was provided to the JET caseworker and to the DHS caseworker, which are the only ones authorized to give the claimant an excuse for not participating in the JET program. There was a letter dated March 15, 2010 from the JET caseworker, but a copy of the fax was not provided and when she received it was not provided. It is the claimant's responsibility to make sure that the fax has the caseworker's name on it and that

she follows through to make sure that they got the information that was required. In addition, the claimant did not attend her triage appointment even though her husband called on August 26, 2009 and the claimant was informed that she had to attend the meeting on August 27, 2009.

Therefore, the department has established that it was acting with department policy by determining that the claimant was not eligible to receive FIP benefits because she was in noncompliance with JET activities with her most recent non-attendance on August 17, 2009, the claimant did not attend her August 27, 2009 triage appointment, and did not provide written documentation about the claimant's family emergencies in a timely manner.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the department properly closed the claimant's FIP case and instituted the three-month penalty from October 1, 2009 through December 31, 2009 because the claimant did not participate in the JET required activities dated August 17, 2009, did not attend her triage dated August 27, 2009, and failed to provide written documentation about family emergencies in a timely manner.

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

/s/
Carmen G. Fahie
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: June 18, 2010

Date Mailed: June 18, 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:

