

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

IN THE MATTER OF:



Reg. No.: 2010-34297
Issue No.: 1038
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: June 14, 2010
DHS County: Washtenaw

ADMINISTRATIVE LAW JUDGE: Rhonda Craig

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. The hearing in this matter was conducted by Administrative Law Judge Michael Herendeen. Judge Herendeen was not available to write the decision in this matter. The undersigned Administrative Law Judge has written this hearing decision after review of all evidence in the record including the recording of the hearing. After due notice, a telephone hearing was held on June 14, 2010. Claimant appeared and testified.

ISSUE

Did the Department of Human Services (department) properly sanction claimant's Family Independence Program (FIP) case due to noncompliance with the Jobs Education and Training program (JET) requirements?

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 required to participate in JET.
2. As a part of JET, claimant was assigned to complete JET orientation on March 1, 2010.
3. Orientations are to be completed on Mondays and claimant was given until April 5, 2010, to complete orientation.
4. Claimant did not complete the orientation and the department found that claimant was in noncompliance on April 2, 2010.

5. The department again notified claimant that she would have until April 29, 2010, to complete orientation.
6. On April 9, 2010, a triage was held and the department found that claimant did not have good cause for failure to complete orientation.
7. On April 12, 2010, claimant attended orientation.
8. On April 24, 2010, the department sanctioned claimant's FIP due to noncompliance with JET for failure to complete orientation.
9. Claimant requested a hearing contesting the sanctioning of her FIP case.

CONCLUSIONS OF LAW

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 (formerly known as the Family Independence Agency) 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 Reference Tables Manual (RFT).

FIP and the Refugee Assistance Program (RAP) provide temporary cash assistance to support a family's movement to self-sufficiency. The recipients of FIP and RAP engage in employment and self-sufficiency-related activities so they can become self-supporting.

Federal and State laws require each work-eligible individual (WEI) in the FIP and RAP group to participate in the JET Program or other employment-related activities unless temporarily deferred or engaged in activities that meet participation requirements. These clients must participate in employment and/or self-sufficiency-related activities to increase their employability and obtain stable employment.

JET is a program administered by the Michigan Department of Labor and Economic Growth (DLEG) through the Michigan Works Agencies (MWAs). The JET program serves both employers and job seekers in that it helps employers obtain skilled workers and job seekers obtain jobs that provide economic self-sufficiency.

A WEI who refuses, without good cause, to participate in assigned employment and/or other self-sufficiency-related activities is subject to penalties. BEM Manual Item 230(a); BEM Manual Item 230(b). DHS requires clients to participate in employment and self-

sufficiency-related activities and to accept employment when offered. The 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 of applicants, recipients, or member 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). FIS must have scheduled an FSSP completion appointment with the client and the client failed to attend before considering a client noncompliant for FSSP non completion.

Comply with activities assigned on the Family Self Sufficiency Plan (FSSP).

Provide legitimate documentation of work participation.

Appear for a scheduled appointment or meeting related to assigned activities.

Participate in employment and/or self-sufficiency-related activities.

Accept 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 Manual Item 230(a).

A mandatory participant in the JET program who fails without good cause to participate in employment activity must be penalized. BEM Manual Item 233(a). The penalty for the first occurrence of noncompliance in the JET program is a closure for a minimum of three calendar months under the FIP program. BEM Manual Item 233(a).

Good cause is a valid reason for noncompliance with employment and/or self-sufficiency-related activities that are based on factors that are beyond the control of the noncompliant person. A claim of good cause must be verified and documented for member adds and recipients. BEM Manual Item 233(a).

The department argues that, although they notified claimant that she was given another chance to attend, they altered their position and retracted that offer by the time of the triage on April 9, 2010. However, this Administrative Law Judge finds that the subsequent offer made by the department indicated essentially that the department no longer found that claimant was noncompliant, despite the previous failures to attend the orientation. The offer vitiated the previous finding. Claimant should have been given an opportunity to comply with that offer prior to sanction. The department erred in sanctioning claimant's FIP case due to noncompliance.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that claimant was not in noncompliance with JET activities and that the department's action in sanctioning claimant's FIP case was in error

AND IT IS ORDERED

That the department reinstate claimant's FIP benefits retroactive to the date of closure or sanction, if she is otherwise eligible.



Rhonda Craig
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: September 14, 2010

Date Mailed: September 14, 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.

RC/pf

cc:

