

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

IN THE MATTER OF:

[REDACTED]
[REDACTED]
[REDACTED]

Reg. No: 2010-55534
Issue No: 1038
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
October 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 October 28, 2010. Claimant personally appeared and testified.

ISSUE

Did the department correctly terminate claimant's Family Independence Program (FIP) benefits in August, 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 was a FIP recipient on July 8, 2010 when she was to return to the Jobs, Education and Training (JET) program activities from her temporary deferral from such activities. (Update/View Case Notes, Department's Exhibits 1 and 2).
2. Claimant called on July 8, 2010 to report her son had a doctor's appointment and she did not come to JET that entire day or provide documentation of the appointment.
3. Claimant was a no call/no show to the JET program on July 9, 2010. She called on July 12, 2010 to report that she will be excused from JET participation due to problem pregnancy and will fax documentation of the same.

4. JET staff gave a verbal warning to the claimant on July 13, 2010 by leaving her a voice mail message as she had not provided any documentation to excuse several absences from the program. Claimant left a voicemail message on July 15, 2010 acknowledging the receipt of the verbal warning and stated she would drop off her medical excuses/documentation on July 19, 2010.
5. Claimant did not provide any documentation on July 19, 2010 but left a message she was on bed rest and will be faxing the documentation in. Written warning was issued by JET staff and mailed to the claimant and she was also contacted by telephone, given JET fax number and told she must fax in her documentation as soon as possible.
6. Claimant came to JET on July 20, 2010 and provided notes excusing her from JET participation on July 8 and 9, 2010 and from July 13 through July 29, 2010. 21 days of medically inactive time was approved, but the claimant was told she must follow-up on July 29, 2010 in regards to her status if she is supposed to be excused for additional time or return to JET.
7. Claimant was a no call/no show to the JET program on July 29, 2010. On July 30, 2010 claimant was assigned to triage to take place on August 11, 2010. Claimant was a no call/no show to her triage appointment.
8. On August 12, 2010 department sent the claimant a notice telling her that her FIP benefits will terminate on August 24, 2010 due to JET non-compliance.
9. Claimant's FIP benefits closed on August 24, 2010. Claimant requested a hearing on September 16, 2010 stating that she was on bed rest from July 29, 2010 through the date of the triage, and that she allegedly called both her JET worker and another worker to let them know of this, something department denies having a record of.

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).

All FIP recipients who do not qualify for a participation exemption or a deferral from the JET program must participate in this program in order to continue to receive FIP. BEM 230A. If a FIP recipient fails to participate in the JET program without good cause, they are subject to sanctions including termination of FIP benefits for a period of 3 months for the first two instances of non-compliance and one year for the third such non-compliance. BEM 233A.

It is very clear from the detailed notes by JET staff that the claimant was made well aware of her responsibility to either report to JET or provide verification of why she could not do so. Claimant was told both verbally and in writing what she had to do, and it was made clear to her that she must either report to JET on July 29, 2010 or provide verification why she could not do so. Claimant testified that she did not call JET staff on July 29, 2010 because she had an appointment at the hospital at 9:45 a.m., and that her sister baby-sat for her while she took the bus to the hospital. What would prevent the claimant from calling JET prior to 9:45 a.m. or after her hospital appointment could not be explained by her. Claimant also stated that she was put on bed rest on July 30, 2010 and was on such bed rest through the date of her triage. Claimant never provided verification of her medical condition. Claimant also testified that she called about the triage but the department has no record of such call on caseworker's telephone log. Claimant's testimony of her attempts to contact JET staff or DHS staff is not credible, as detailed JET case notes show that she failed to follow JET procedures and staff instructions clearly given to her repeatedly by JET staff in person, by telephone, and by written warnings. Department therefore correctly concluded that the claimant failed to comply with JET program rules/participation without good cause due to her failure to provide required verification of her alleged medical condition or report to JET site on July 29, 2010, and also due to her missed triage appointment which could have been completed by telephone if she had indeed called about it.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department correctly terminated claimant's FIP benefits in August, 2010.

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: December 20, 2010

Date Mailed: December 20, 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.

IR/tg

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