

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: 2010-727

Issue No: 1038

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

October 29, 2009

Jackson County DHS

ADMINISTRATIVE LAW JUDGE: Suzanne L. Keegstra

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 29, 2009. The claimant personally appeared and provided testimony.

ISSUE

Did the department properly determine the claimant's Family Independence Program (FIP) application should be denied for Work First/Jobs, Education and Training (WF/JET) program noncompliance in May, 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. The claimant applied for FIP benefits and signed the Work and/or Self-Sufficiency Rules for Cash Recipients (DHS-1538) on May 11, 2009. (Department Exhibit 1).

2. The claimant was mailed a WF/JET Appointment Notice (DHS-4785) on May 11, 2009, scheduling her orientation with WF/JET for May 18, 2009.

(Department Exhibit 2).

3. The claimant did not attend the WF/JET orientation appointment.

(Department Exhibit 3).

4. The department denied the claimant's application on May 23, 2009.

5. The claimant requested a hearing on August 12, 2009.

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 Bridges Reference Manual (BRM).

Department policy states:

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 BEM 228, who fails, without good cause, to participate in employment or self-sufficiency-related activities, must be penalized.

See BEM 233B for the Food Assistance Program (FAP) policy when the FIP penalty is closure. For the Refugee Assistance Program (RAP) penalty policy, see BEM 233C. BEM 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 related to assigned activities.

- .. Provide legitimate documentation of work participation.
 - .. 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. BEM 233A, pp. 1-2.

JET Appointment Notice and JET Attendance Requirements

Exception: Use the DHS-4785, JET Appointment Notice at **application** to schedule an appointment for each mandatory JET participant. Include the date, time and location to appear for their JET assignment. When assigned, clients must engage in and comply with all JET assignments while the FIP application is pending. JET engagement is a condition of FIP eligibility. PEM 229, p. 2.

Failure by a client to participate fully in assigned activities while the FIP application is pending will result in denial of FIP benefits, if upon the day of case processing the client is in noncompliance with JET. Use ASSIST denial code 463 and CIMS denial code 210 for clients denied FIP benefits for noncompliance while the application is pending. Retain a copy of the appointment notice in the case record. Do not penalize Food Assistance when a client fails to attend JET as a condition of eligibility when the noncompliant person is not active FIP on the date of the noncompliance. Clients must be active FIP to apply a FIP penalty to the FAP case.

Noncompliance is defined by department policy as failing or refusing to do a number of activities, such as attending and participating with WF/JET, completing the FAST survey, completing job applications, participating in employment or self-sufficiency-related activities, providing legitimate documentation of work participation, etc. BEM 233A. In this case, the claimant does not dispute that she was noncompliant with WF/JET program requirements. The claimant admits that she did not attend the WF/JET orientation.

The claimant indicates that she believes she had good cause for her noncompliance. Good cause is defined as 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. BEM 233A. The claimant testified that she provided a doctor's slip to WF/JET on May 12, 2009, that excused her from working from May 18 – May 22, 2009. The claimant provided this doctor's slip as evidence (see Claimant Exhibit 4). No WF/JET worker was present to confirm or deny the claimant's testimony that she provided the doctor's slip to WF/JET. The claimant further testified that she called her caseworker several times to inform the department that she wasn't able to make the orientation date and that she never received any telephone calls back from the department. The caseworker was not present in the hearing to confirm or deny if the claimant had made any telephone calls to the department about this issue.

The Work and/or Self-Sufficiency Rules for Cash Recipients (DHS-1538) that the claimant signed on May 11, 2009, states “[i]f you are a mandatory JET participant, you must attend JET within 20 days of this notice and you must continue to participate.” The department scheduled the claimant for her WF/JET orientation on May 18, 2009. However, once she missed that appointment, she was not given any second appointment. This Administrative Law Judge certainly understands the department was trying to process the claimant's FIP application within

the standards of promptness, but in this case, the claimant was not given the 20 days to attend WF/JET. The department and WF/JET could have accommodated the claimant's doctor's slip and still been within the 20 days of the WF/JET orientation period.

The claimant testified that she re-applied for FIP benefits in the end of July or beginning of August, 2009. This Administrative Law Judge finds that the claimant's FIP application should not have been denied. It appears from the claimant's testimony that she was approved for FIP benefits from her July or August application date, so the claimant's FIP case should be retroactively opened to her original date of application, April 16, 2009.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department improperly denied the claimant's FIP application for failure to engage with WF/JET in May, 2009.

Accordingly, the department's actions are REVERSED. The department shall:

1. Reinstate the claimant's FIP case effective back to her April 16, 2009 date of application and issue her any retroactive benefits she is entitled to.

SO ORDERED.

/s/
Suzanne L. Keegstra
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: December 18, 2009

Date Mailed: December 21, 2009

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.

SLK [REDACTED]

cc:

[REDACTED]