

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: 2010-9584
Issue No: 1038
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
January 14, 2010
Muskegon 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 January 14, 2010. Claimant personally appeared and testified along with her mother

[REDACTED]

ISSUE

Did the department correctly take action to terminate claimant's Family Independence Program (FIP) benefits in September, 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. Claimant re-applied for FIP benefits on June 15, 2009, after her case had been closed for three months due to her noncompliance with the Jobs, Education and Training (JET) program.

2. Claimant was referred back to JET due to being a mandatory participant in this program. Claimant's caseworker, prior to referring her back to JET program, explained to her, as she had done in previous triage meeting, that if she did not comply with the program again her FIP benefits would be closed for 12 months.

3. Claimant attended JET orientation on July 27, 2009 and her FIP benefits were opened on July 30, 2009. Claimant however never returned to the JET program after her FIP case was opened, and JET referred her for her 3rd triage on September 1, 2009.

4. Triage was conducted on September 24, 2009, at which time the claimant stated she simply was not going to JET or doing her job searches. No good cause for JET noncompliance was granted and claimant's FIP case closed effective October 6, 2009. Claimant requested a hearing on October 30, 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 Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

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

All Work Eligible Individual (WEI) and adult non-WEIs (except ineligible grantees, clients deferred for lack of child care (DC) and disqualified aliens), see PEM 228, who fail, without good cause, to participate in employment or self-sufficiency-related activities, must be penalized. Depending on the case situation, penalties include the following:

- Delay in eligibility at application.
- Ineligibility (denial or termination of FIP with no minimum penalty period).
- Case closure for a minimum of three or 12 months.

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.

Claimant is not disputing that she was a mandatory JET participant, or that she failed to participate in the JET program. Claimant however testified that she has been trying to go but could not due to problems with her foot. Claimant had only provided a doctor's statement dated November 3, 2009 to support her medical issue claim. This statement describes the claimant as injuring her right foot last summer, and that she was last seen on October 2, 2009.

Doctor indicates that for foot issue reason claimant is not to stand, push, stair climb, lift over 10 pounds, or pull objects.

Claimant stopped participating in the JET program after she attended orientation on July 27, 2009. Claimant had failed to provide any medical documentation for August, September or October, 2009. Claimant's caseworker testified that she has been her caseworker all along, that she went over all of the paperwork pertaining to JET requirements in detail with the claimant, and that she told the claimant that she must contact her or the JET case manager if she cannot participate. Caseworker further stated that the claimant told her at the triage that she did not want to participate in JET. Since the claimant did not state to her caseworker or the JET case manager that she had any type of medical issues preventing her participation, her alleged medical problems were rightfully not considered by the department.

Claimant's mother testified that the claimant's weight adds to her foot problems, as her foot swells up when she walks a distance. In response to the caseworker's testimony describing her efforts and explanations of JET requirements to the claimant, her mother states that the claimant needs counseling to be motivated to do things. However, even if the claimant is having psychological issues, such issues must be brought to the attention of the department or JET staff in order to be considered for possible JET deferral.

In conclusion, this Administrative Law Judge cannot find a valid excuse in claimant's testimony for her failure to participate in the JET program as she was required to do. Department's testimony as to the efforts put forth to make the claimant understand the consequences of her third JET noncompliance is persuasive. Unfortunately, the claimant does not appear to have taken these efforts seriously.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department correctly took action to terminate claimant's FIP benefits in September, 2009.

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: February 8, 2010

Date Mailed: February 11, 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.

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