

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Claimant

Reg. No. 2008-27658

Issue No. 1005

Case No.



Load No.

Hearing Date:

January 5, 2009

Washtenaw County DHS

ADMINISTRATIVE LAW JUDGE: Michael J. Bennane

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9; MSA 16.409 and MCL 400.37; MSA 16.437 upon the Claimant's request for a hearing. After due notice a telephone hearing was held on January 5, 2009. The Claimant personally appeared and testified.

ISSUE

Did the Department properly close the Claimant's Family Independence Program (FIP)?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material and substantial evidence on the whole record, finds as material fact:

1. Claimant is a FIP recipient.
2. On June 17, 2008, the Department sent the Claimant a notice of Jobs, Education and Training (JET) noncompliance. (Department exhibit 5).
3. On June 27, 2008, the Department held a triage with the Claimant and reached an agreement that the Claimant would attend JET on June 30, 2008. (Department Exhibit 4).

4. One June 30, 2008, Claimant attended JET.
5. On July 9, 2008, the Department closed the Claimant's FIP.
6. On August 5, 2008, the Claimant filed a request for a hearing.

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 (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 Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

In the instant case, the Department representative scheduled a triage when the Claimant failed to comply with JET. The Department gave the Claimant the opportunity to return to JET on June 30, 2008.

At the hearing the Department testified that the JET worker assigned to the Claimant told the Department representative that the Claimant did not attend JET on June 30, 2008. This is in conflict with the Claimant's testimony at the hearing. The Claimant testified that she did attend and signed in at JET on June 30, 2008.

The Department testified that the JET worker in question no longer held that position. The Department was further unable to show any other documentation (case notes) of the Claimant's lack of attendance on June 30, 2008.

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:

Do not apply the three or 12 month penalty to ineligible caretakers, clients deferred for lack of child care (DC) and disqualified aliens. Failure to complete a FAST or FSSP results in closure due to failure to provide requested verification. Clients can reapply at any time.

Failing or refusing to:

- Appear and participate with the Jobs, Education and Training (JET) Program or other employment service provider. (PEM 233A, pp. 1-2).

In the instant case there is a conflict between the hearsay testimony given by the Department that the former JET worker told the Department that the Claimant did not attend on June 30, 2008; and the testimony given by the Claimant that she not only was in attendance but also signed in on June 30, 2008.

There being no further evidence offered by the Department that the Claimant was not in fact in attendance on June 30, 2008, it is found that the Department erred in closing the Claimant's FIP.

DECISION AND ORDER

The Administrative Law Judge based on the above findings of fact and conclusions of law, **REVERSES AND ORDERS** the Department to retroactively reinstate the Claimant's FIP retroactive to closure.

/s/ _____
Michael J. Bennane
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: _____

Date Mailed: _____

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.

MJB

cc:

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