

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: 2008-30758

Issue No: 1038

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

October 15, 2009

Genesee County DHS

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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 15, 2009. Claimant appeared and testified. Kimberly Lorick, JET specialist, appeared on behalf of the department.

ISSUE

Whether the department properly closed claimant's Family Independence Program (FIP) benefits case for noncompliance with employment related activities.

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 an ongoing recipient of FIP benefits.
- (2) On May 22, 2008, Work First requested a triage meeting because claimant did not complete orientation. (Department Exhibit 1 pg. 1B)
- (3) On June 26, 2008, claimant attended the triage meeting and signed a DHS 754 First Noncompliance Letter (DHS 754) indicating that she was not found to have good cause for noncompliance with employment-related activities and was assigned to report back to Work First for Orientation on June 30, 2008 at 9:00 am. Job search activities (JSA) was also listed on the form, but no total hours were indicated. Claimant was to return the DHS 754 with a signature verifying she completed the assignment by July 8, 2008, by 3:00 pm. (Department Exhibit 1, pg. 5)
- (4) A June 26, 2008 “triage results” case note indicates that claimant was assigned to complete orientation the week of June 30, 2008, starting on June 30, 2008 at 9:00 am, start job search activities completing a whole day on July 8, 2008 and then Work First would sign off on the DHS 754. (Department Exhibit 1, pgs. 1A and 1B)
- (5) Claimant did attend orientation on June 30, 2008. (Department Exhibit 1, pg. 1A)
- (6) Claimant testified that Work First did not return the DHS 754 to her on June 8, 2008 in time for her to submit it to the department that day. Therefore, she submitted the form to the department on July 9, 2008.
- (7) The department received the DHS 754 on July 9, 2008. The form was not signed by anyone at Work First indicating the assignment was completed, but there was a note added to the bottom of the page which has been cut off in the photocopying process. (Department Exhibit 1, pg. 5)

(8) On July 9, 2008, the department sent claimant notice that her FIP benefits would close July 22, 2008. (Department Exhibit 1, pg. 4)

(9) The July 9, 2008 Work First case note indicated claimant's case was closed in error and has been reopened. (Department Exhibit 1, pg. 1A)

(10) On July 21, 2008, claimant began job search activities. (Department Exhibit 1, pg. 1A)

(11) On July 25, 2008, Claimant called work first after missing two days of participation on July 22 and 23, 2008, reporting that she was at a first and second job interview. (Department Exhibit 1, pg., 1A)

(12) Claimant only completed 24 of the required 40 hours of participation the week of July 21, 2008 to July 25, 2008. (Department Exhibit 1, pg. 1A)

(13) Claimant requested a hearing contesting the July 22, 2008 FIP closure on August 8, 2008.

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 Dependant 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).

The Family Independence Program (FIP) provides temporary cash assistance to support a family's movement to self-sufficiency. The recipients of FIP 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 group to participate in the Jobs, Education and Training (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. PEM 230A.

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 employers and job seekers for employers to have skilled workers and job seekers to obtain jobs that provide economic self-sufficiency. PEM 230 A. A mandatory participant in the JET program who fails without good cause to participate in employment activity must be penalized. PEM Manual Item 233(a). The penalty for the first or second occurrence of noncompliance in the JET program is a closure for a minimum of three calendar months under the FIP program. PEM Manual Item 233(a). If a customer is found in noncompliance with FIP when they are also a recipient of FAP, their FAP case will also be penalized for a minimum of three months under the JET program. PEM Manual Item 233(b); 42 USC 607. Good cause is a valid reason for noncompliance with employment related activities. A claim of good cause must be verified and documented for applicants, members, and recipients. PEM Manual Item 230(a), PEM Manual Item 230(b); 7 CFR Parts 272 and 273. Under PEM 233A, the department must schedule a triage meeting to determine if there was good cause prior to the closure of FIP benefits.

In the present case, claimant signed the DHS 754 agreeing to a first noncompliance at the June 26, 2008 triage meeting. (Department Exhibit 1, pg. 5) The department then assigned claimant back to Work First. However, there are discrepancies in the assignment as the department testified to, as documented in the Work First case notes and as listed on the DHS 754. The department testified claimant was to report to Work First orientation on June 30,

2008, complete Work First orientation that week, begin job search activities on July 8, 2008 and return the DHS 754 signed by Work First to verify completion of the assignment on July 8, 2008. The Work First case note also indicates orientation was to be completed the week of June 30, 2008, but then states claimant was to start the job search activities on July 8, 2008, completing a full day. Work First would then sign the DHS 754 but no deadline for returning the form to the department is listed. (Department Exhibit 1, pgs. 1A and 1B) The actual DHS 754 form only indicates claimant is to attend orientation on June 30, 2009 at 9:00 am and does not indicate anything about completing orientation, a date to begin job search activities or total hours to complete. Further, a note on the bottom of the form indicates it was to be returned to the department by 3:00 pm on July 8, 2008. (Department Exhibit 1, pg., 5)

It is noted that if claimant completed a full day of job search activities on July 8, 2008, as indicated in the Work First note, she could not have returned the form to the department by 3:00 pm that same date as listed on the DHS 754 form. Further, neither the timeframe for completion of orientation nor the job search activity requirements were clearly listed on the DHS 754 form.

Claimant did attend Work First orientation on June 30, 2008 as documented in the Work First case notes. (Department Exhibit 1, pg. 1A) The Work First case notes do not indicate when orientation was completed or if the job search activities began on July 8, 2008.

Claimant testified that on July 8, 2008 there were problems at Work First and they did not return the DHS 754 to her in time to get it to the department that day. Therefore, claimant testified she had to submit it to the department on July 9, 2008. Claimant's testimony regarding problems at the office is supported by the Work First documentation. A note was added to the bottom of the DHS 754, "Didn't complete due to closure w/review Due 7/8/09 spoke w/DHS C. Hayes that she" (Department Exhibit 1, pg. 5) The rest of the note is cut off from photocopying and the department testified that they do not have a copy showing the full note. However, when

taken in context with a July 9, 2008 Work First case note that claimant's case was closed in error and has been re-opened, it appears there was a problem at Work First regarding claimant's case and they called the department on July 8, 2008 on claimant's behalf regarding this assignment. (Department Exhibit 1, pg. 1A) The department however, set claimant's case to close because the DHS 754 was not returned by 5:00 pm on July 8, 2008. (Hearing Summary) The department issued notice on July 9, 2008 that the FIP benefits would close on July 22, 2008. (Department Exhibit 1, pg. 4)

There is no documentation showing claimant completed all assigned activities as agreed to at the June 26, 2008 triage meeting. However, the records show that all parts of the assignment were not clearly listed on the DHS 754. Further the department and Work First may have had differing or unrealistic expectations for claimant's participation in job search activities on July 8, 2008 and when claimant was to return the form to the department. Based on the claimant's testimony and the records, it appears there was some problem with claimant's case at Work First on July 8, 2008 and Work First did contact the department regarding this issue. Further, there is no documentation that claimant did not complete the orientation the week of June 30, 2008 as assigned, that she did not attend Work First on July 8, 2008, or that she was unwilling to participate in the job search activities on July 8, 2008. Accordingly, the department has not met their burden of proof that claimant was noncompliant with the assignments given on the June 26, 2008 DHS 754.

It appears that Work First was not aware the department continued with the proposed July 22, 2008 closing of FIP benefits. The Work First case note dated July 9, 2008 indicates the closure was in error and that the case had been reopened. Further Work First had claimant began job search activities on July 21, 2008. (Department Exhibit 1, pg, 1A)

Claimant did have a compliance issue regarding attendance the week of July 21, 2008 and testified she missed two days that week due to job interviews. The Work First notes show a phone conversation with the department on July 24, 2008 about claimant's attendance at Work First that week. The note documents that the Work First supervisor decided that claimant's case should remain closed due to the lack of attendance. (Department Exhibit 1, pg. 1A) However, on July 25, 2008 Work First talked with claimant about her attendance and apparently did not tell claimant about the decision for her case to remain in closure. (Department Exhibit 1, pg. 1A) Claimant testified she provided verification of the job interviews to Theresa at Work First and was allowed to submit a time card for the week. (Claimant Exhibit A, pg. 2) On July 30, 2008, Work First counted 24 hours of participation for claimant for the week of July 21-25, 2008. (Department Exhibit 1, pg. 1A) Claimant's case did not close with Work First until August 29, 2008. (Department Exhibit 1, pg. 1 A)

Based upon the foregoing facts and relevant law, it is found that the department has not documented noncompliance with employment-related activities as assigned on the June 26, 2008 DHS 754 that was due July 8, 2008. The July 9, 2008 Work First note indicates claimant's case was closed in error, and was re-opened. Claimant began participation in job search activities with Work First on July 21, 2008. Further, it appears the decision for claimant's case to remain in closure was made based on noncompliance with attendance the week of July 21, 2008 and no triage meeting was held to discuss this noncompliance. This was a separate incident of noncompliance unrelated to the June 26, 2008 assignment and would have required a triage meeting prior to case closure. Therefore, the department shall hold a triage meeting regarding the noncompliance the week of July 21-25, 2008.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department has not met their burden of proof that claimant was noncompliant with the assignments given on the June 26, 2008 DHS 754. Further, the decision for the case to remain in closure was made based on a separate incidence of noncompliance, attendance the week of July 21, 2008, for which a triage meeting was never held.

Accordingly, the department's FIP determination is REVERSED. Therefore, it is ORDERED that the department hold a triage meeting regarding noncompliance with attendance the week of July 21, 2008.

/s/ _____
Colleen Lack
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: October 23, 2009

Date Mailed: October 26, 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 mailing date of the rehearing decision.

CL/cv

cc:

