

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: 2009-11313
Issue No: 1035
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
March 17, 2009
Jackson County DHS

ADMINISTRATIVE LAW JUDGE: Jay W. Sexton

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, an EXPEDITED in-person hearing was held on March 17, 2009 in Jackson. Claimant personally appeared and testified under oath.

The department was represented by Don Baibak (FIM) and Tony Lewis (FIS).

ISSUE

Did the department correctly decide to sanction the claimant's FIP case on February 5, 2009 due to claimant's failure to comply with her JET/Work First assignment for the weeks of November 10 and November 17, 2008?

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 is a current FIP recipient, with a group size of 3.

(2) In November 2008, claimant was employed part-time by a house-cleaning service. Claimant's employment did not meet JET requirements and was not properly verified in November. Claimant's job with the house-cleaning service was not approved by the JET worker for purposes of satisfying her JET/Work First assignment.

(3) In November 2008, the Work First worker assigned claimant to attend an educational component ([REDACTED]) for 30 hours each week. The Work First caseworker gave claimant written notification of this assignment. Claimant acknowledged the assignment by signing the Work First notice.

(4) During the week of [REDACTED], claimant completed 25 hours at [REDACTED]. Claimant was five hours short of her 30-hour requirement for the period.

(5) During the week of [REDACTED], claimant completed 24 hours of her [REDACTED] assignment. She was six hours short of her 30-hour requirement.

(6) On [REDACTED], the caseworker sent claimant a FIP closure notice (DHS-2444) stating that claimant was in noncompliance with her Work First [REDACTED] assignment because she failed to meet her 30-hour per week requirement in [REDACTED].

(7) The caseworker scheduled a Triage appointment for claimant on January 27, 2009 at 1 p.m. Claimant appeared for the Triage meeting.

(8) During the Triage meeting, the JET worker reviewed claimant's reasons for not completing her 30-hour [REDACTED] requirement:

- (a) Claimant did not realize that she had a 30-hour per week [REDACTED] requirement; and
- (b) Claimant wanted her work hours at the house-cleaning company to be counted toward her [REDACTED] requirement.

(9) During the Triage meeting, the JET worker notified claimant that she did not have good cause for her failure to complete her 30-hour per week [REDACTED] assignment for the weeks of [REDACTED]. The JET worker offered to resolve the issue of noncompliance by using the one-time only compliance test. The claimant declined to sign the papers for a compliance test.

(10) On February 10, 2009, claimant requested a hearing on the proposed FIP sanction due to noncompliance with [REDACTED]. The department pended the proposed FIP closure based on claimant's timely hearing request.

(11) Claimant's FIP case is currently open.

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).

The following department policies outline the applicable employment requirement for FIP recipients assigned to Work First:

DHS requires clients to participate in employment-related activities and to accept employment when offered. Our focus is to assist clients in removing barriers so they can participate in activities that lead to self-sufficiency. However, there are consequences for a client who refuses to participate in employment-related activities or refuses to accept employment without good cause. PEM 233A.

During the Triage meeting with the JET worker on January 27, 2009, the JET caseworker explained to claimant that she was in noncompliance with her [REDACTED] assignment.

The JET worker considered claimant's arguments that she had not been given notice of the 30-hour requirement and that she should be allowed to count her work at the house-cleaning company as hours toward her Work First assignment.

After carefully considering claimant's good cause reasons, the JET worker concluded that claimant was in noncompliance.

In order to assist claimant to complete her Work First assignment, and maintain her FIP benefits, the JET worker offered claimant a one-time only compliance test. For reasons that are not entirely clear, claimant declined to accept the compliance test in settlement of the noncompliance issue. The purpose of the compliance test is to reinstate claimant's participation in Work First program and preserve claimant's FIP benefits for the duration.

The preponderance of the evidence in the record shows that the JET caseworker properly assigned claimant to attend Work First. The Work First caseworker properly assigned claimant to attend [REDACTED] for 30 hours each week. The evidence clearly shows that claimant failed to comply with her [REDACTED] assignment for the weeks of [REDACTED].

Based on claimant's failure to complete her [REDACTED] assignment on two separate occasions, and claimant's failure to establish good cause reasons for her noncompliance, the JET caseworker correctly decided to sanction claimant's FIP case on February 5, 2009.

After a careful review of the record, the Administrative Law Judge concludes that there is no evidence of arbitrary or capricious actions by the JET caseworker in his decision to sanction claimant's FIP case. The record shows that the JET caseworker made an attempt to accommodate claimant so that she could complete her [REDACTED] assignment and maintain her

FIP benefits. However, for reasons not entirely clear on the record, claimant failed to make use of the proposed compliance test offered by the JET caseworker for the sole purpose of resolving the noncompliance issue and maintaining claimant's participation in the [REDACTED] program.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department's JET/Work First sanctions are correct.

Accordingly, the department's action is, hereby, AFFIRMED.

SO ORDERED.

/s/ _____
Jay W. Sexton
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: March 18, 2009

Date Mailed: March 19, 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 receipt 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.

JWS/tg

cc:

[REDACTED]