

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.: 2009-14176

Issue No.: 1038

Case No.: [REDACTED]

Load No.: [REDACTED]

Hearing Date:

March 30, 2009

Wayne County DHS (57)

ADMINISTRATIVE LAW JUDGE: Colleen M. Mamelka

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the Claimant's request for a hearing. After due notice, a telephone hearing was conducted from Detroit, Michigan on March 30, 2009. The Claimant appeared and testified. [REDACTED] appeared on behalf of the Department.

ISSUE

1. Whether the timely appealed the October 21, 2008 negative action.
2. Whether the Department properly terminated the Claimant's FIP benefits based upon the Claimant's non-compliance with the Jobs, Education, and Training ("JET") program.

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 was a FIP recipient.
2. The Claimant was previously deferred from participation in the JET program.
3. In September of 2008, the Claimant's case was referred to the Department for a triage.

4. There was no record that a triage was scheduled or that the Claimant was informed of the JET non-compliance.
5. On or about October 8, 2008, The Department pended the Claimant's case for closure effective October 21, 2009.
6. A triage was not held.
7. The case worker who handled the Claimant's file during the latter part of 2008 did not participate in the hearing.
8. On October 21, 2008, the Claimant's FIP case closed and a three month sanction was imposed.
9. On October 21, 2008, the Department's record show that the Claimant came to the local office however a request for hearing was not in the Claimant's file.
10. The Claimant testified that she submitted a request for hearing and continued to follow-up on the request both locally and with Lansing.
11. On February 10, 2008, the Claimant submitted a second hearing request. (Exhibit 1)
12. The Claimant submitted another FIP application on February 13, 2009.

CONCLUSIONS OF LAW

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901 - .951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because a claim for assistance is denied or is not acted upon with reasonable promptness, and to any recipient who is aggrieved by an agency action resulting in suspension, reduction, discontinuance, or termination of assistance. MAC R 400.903 A request for hearing shall be in writing and signed by the claimant, petitioner, or authorized representative. MAC R 400.904(1)

A claimant shall be provided 90 days from the negative action notice. MAC R 400.902 - .904; PAM 600, p. 4

In this case, the Department confirmed that the Claimant was at the local office on October 21, 2008. Although there was no record of the Claimant's October 2008 hearing request, the Claimant testified credibly that she submitted a request and continued to follow-up on the request both with the local office and with Lansing. In light of the foregoing, it is found that the Claimant timely appealed the October 21, 2008 negative action.

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, formally 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").

DHS requires clients to participate in employment and self-sufficiency related activities and to accept employment when offered. PEM 233A, p. 1 The Family Self-Sufficiency Plan ("FSSP") was created to allow DHS and other DHS client service providers to share information about mutual clients for optimal case management. PEM 228, p. 1 The FSSP seeks to assist clients to achieve self-sufficiency, whenever possible, by identifying and removing barriers. PEM 228, p. 1 All Work Eligible Individuals ("WEI") are required to participate in the development of FSSP unless good cause exists. PEM 228, p. 1 As a condition of eligibility, all WEIs must engage in employment and/or self-sufficiency related activities. PEM 233A, p. 1

The WEI is considered non-compliant for failing or refusing to appear and participate with the Jobs, Education, and Training Program (“JET”) or other employment service provider. PEM 233A, p. 1 Good cause is 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. PEM 233A, p. 3 Failure to comply without good cause results in FIP closure. PEM 233A, p. 5 The first and second occurrences of non-compliance results in a 3 month FIP closure. PEM 233A, pp. 5-6

JET participants will not be terminated from a JET program without first scheduling a triage meeting with the client to jointly discuss noncompliance and good cause. PEM 233A, p. 7 In processing a FIP closure, the Department is required to send the client a notice of non-compliance, DHS-2444, which must include the date(s) of the non-compliance; the reason the client was determined to be non-compliant; and the penalty duration. PEM 233A, p. 8 In addition, a triage must be held within the negative action period. PEM 233A, p. 8 A good cause determination must be made prior to the negative action effective date. PEM 233A, p. 8

In this case, the Department acknowledged that it was unable to meet its burden of proof in establishing that Department policy was followed when the Claimant’s FIP benefits were terminated. There was no record that a Notice of Non-compliance was mailed to the Claimant or that a triage was scheduled. Additionally, the Claimant, who was previously deferred from JET participation, testified that she had in fact turned in all medical documentation requested. Ultimately, under the facts presented, the Department’s actions are not upheld.

2009-14176/CMM

cc:

