

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.: 2009-14244
Issue No.: 1038
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
June 11, 2009
Wayne County DHS (73)

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 hearing has held in Detroit, Michigan on June 11, 2009. The Claimant appeared and testified, along with her representative, [REDACTED]. [REDACTED] and [REDACTED] appeared on behalf of the Department.

ISSUE

Whether Department properly pended the Claimant's FIP benefits for closure due to 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 is a FIP recipient.
2. In November and December 2008, the Claimant was non-compliant with the JET program.

3. The Claimant informed the Department that the JET absences were due to illness so on January 12, 2008, the Department sent the Claimant a Verification Checklist and Medical Needs form to be completed and submitted to the Department by January 26, 2009. (Exhibits 1, 2)
4. The Verification Checklist and Medical Needs form were not submitted as requested.
5. On January 29, 2009, the Department pended the Claimant's FIP benefits for closure and scheduled a triage to determine whether good cause existed for the JET non-compliance. (Exhibit 3, 4)
6. The Claimant received the Notice of Case Action informing her that her FIP grant would be cancelled effective February 10, 2009. (Exhibit 5)
7. On [REDACTED], the Claimant attended the scheduled triage and brought in documentation confirming emergency room treatment on [REDACTED], [REDACTED], and [REDACTED].
8. The Department determined good cause was not established and requested the Medical Needs form be returned by February 9th in order to avoid the FIP closure. (Exhibit 6)
9. On February 6th, the Department received the Claimant's written request for hearing and deleted the negative action. (Exhibit 5)

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, 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 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 The FSSP seeks to assist clients to achieve self-sufficiency, whenever possible, by identifying and removing barriers. PEM 228 All Work Eligible Individuals (“WEI”) are required to participate in the development of FSSP unless good cause exists. PEM 228 As a condition of eligibility, all WEIs must engage in employment and/or self-sufficiency related activities. PEM 233A 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 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 Failure to comply without good cause results in FIP closure. PEM 233A The first and second occurrences of non-compliance results in a 3 month FIP closure. PEM 233A

Clients must cooperate with the local office in determining initial and ongoing eligibility to include the completion of the necessary forms. PAM 105 Verification means documentation or other evidence to establish the accuracy of the client’s verbal or written statements. PAM 130 If neither the client nor the Department is able to obtain verification despite reasonable effort, the Department should use the best available information. PAM 130 If no evidence is available, the

Department should use its best judgment. PAM 130 Client's are allowed 10 calendar days (or other time limit specified in policy) to provide the requested verifications. PAM 130

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 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 In addition, a triage must be held within the negative action period. PEM 233A A good cause determination is made during the hearing and prior to the negative action effective date. PEM 233A

In the record presented, the Claimant informed the Department that the JET non-compliance was due to her child being ill. In response, the Department sent the Claimant a Verification Checklist requesting the Medical Needs form be completed in order to allow for a JET deferral. The Claimant informed the JET program that hospital's emergency room, where medical treatment was received, would not complete the Medical Needs form. The Claimant submitted the discharge paperwork to the JET program. During triage, the Claimant provided the hospital discharge paperwork to establish good cause, again stating she was unable to get the Medical Needs form completed. There was no evidence presented that the Claimant had refused to cooperate or was otherwise non-compliant. Ultimately, under these facts, the Claimant established good cause for the non-compliance thus the Department's determination is not upheld.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department's determination is not upheld.

Accordingly, it is ORDERED:

1. The Department's determination is not upheld.
2. The 3-month JET sanction is not imposed.
3. The Department shall supplement the Claimant for any lost benefits (if any) she was entitled to receive if otherwise eligible and qualified in accordance with department policy.

/s/

Colleen M. Mamelka
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 06/17/09

Date Mailed: 06/17/09

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.

CMM/jlg

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