

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: 2009-1462

Issue No: 1038

Case No: ██████████

Hearing Date:

January 15, 2009

Wayne County DHS

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 was conducted from Detroit, Michigan on January 15, 2009. The Claimant appeared and testified. Karen Stokes appeared on behalf of the Department.

ISSUE

Whether Department properly terminated the Claimant's FIP case due to her failure to participate in 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. On June 18, 2008, the Claimant was instructed to report to the JET program on June 24th at Development Centers, Inc ("DCI"). (Exhibits 2, 5)
3. The Claimant participated as instructed.

4. Based upon the Claimant's zip code, the Claimant should have reported to Ross, I.E.S., ("Ross") as opposed to DCI. (Exhibit 7)

5. On August 13, 2008, the Department sent the Claimant a Notice of Non-compliance based upon the failure to attend the Ross JET program. (Exhibit 3)

6. The Claimant did not receive notice of the triage appointment.

7. The Claimant was informed she was participating at the wrong JET program location.

8. Prior to the scheduled triage, the Claimant contacted the Department regarding where she should attend the JET program.

9. The Claimant was informed of the triage but was told her attendance was not necessary and that she would be referred to the proper JET location.

10. The Department found no-good cause for the alleged non-compliance based upon the Claimant's failure to attend the triage. (Exhibit 4)

11. On August 27, 2008, the Claimant's FIP benefits were terminated and the 3-month sanction was imposed.

12. On September 18, 2008, the Department received the Claimant's written hearing request protesting the termination of FIP benefits and the imposition of the sanction. (Exhibit 8)

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 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 The third occurrence results in a 12 month sanction.

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. *Id.* A good cause determination is made during the hearing and prior to the negative action effective date. *Id.*

In the record presented, the Department instructed the Claimant to participate in the JET program at the DCI location. During the hearing, the Claimant brought documentation establishing her participation. The Claimant contacted the Department immediately when informed she should be participating at a different location based upon her zip code. There was no evidence the Claimant failed or refused to participate, but instead, attended the JET program as (and where) originally instructed. Under this scenario, the Department's actions are 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 to terminate the Claimant's FIP benefits is REVERSED.
2. A 3-month FIP sanction is not imposed.
3. The Department shall reinstate the Claimant's benefits from the date of closure and supplement the Claimant for any lost benefits the Claimant was otherwise eligible and qualified to receive in accordance with department policy.

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

Date Signed: January 22, 2009

Date Mailed: January 28, 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 60 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

