

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.: 2009-15743
Issue No.: 1038
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
April 16, 2009
Wayne County DHS (57)

ADMINISTRATIVE LAW JUDGE: Michael J. Benmane

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9; MSA 16.409 and MCL 400.37; MSA 16.437 upon the Claimant's request for a hearing. After due notice a telephone hearing was held on April 16, 2009. The Claimant was present and testified.

ISSUE

Did the Department properly close the Claimant's Family Independence Program (FIP)?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material and substantial evidence on the whole record, finds as material fact:

1. The claimant is a FIP recipient and is required to be involved in work related activities. The group size is two (2).
2. On February 3, 2009, the department sent the claimant a notice of noncompliance with work related activities, with a triage scheduled for February 12, 2009. (Department exhibit 2)

3. On February 12, 2009, the claimant failed to attend the triage. The department found no good cause for the claimant's noncompliance and moved to close her FIP.
3. On February 18, 2009, the department sent the claimant a notice that her FIP was to be cancelled. (Department exhibit 5).
5. On February 17, 2009, the Claimant requested a hearing.

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 (formerly 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).

Here, the department assigned the claimant to JET and began closure of her FIP when the claimant failed to attend JET and a triage meant to discuss the claimant's reasons for nonattendance.

The claimant states that she has experienced transportation problems both in attending JET and in completing job searches.

The department closed the claimant's FIP on March 3, 2009, after having received the claimant's request for a hearing on February 27, 2009.

While waiting for the hearing decision, recipients must continue to receive the assistance authorized prior to the notice of negative action when the request was filed timely. Upon receipt of a timely hearing request, do one of the following that applies to the case.

Delete the pending negative action.

Reinstate program benefits to the former level for a hearing request filed because of an immediate negative action. (PEM 600, p.17).

In the instant case the department closed the claimant's FIP even though she had made a timely request for a hearing before the closing of the case.

This ALJ finds that the department erred in closing the claimant's FIP after she had made a timely request for a hearing before the closure of her FIP. In addition the claimant showed good cause for her non-compliance with JET. The claimant testified and produced a witness that also testified to the claimant's lack of bus tokens and the necessity for the person testifying to both loan her funds for transportation and to also pick her up due to lack of bus tokens.

DECISION AND ORDER

The Administrative Law Judge based on the above findings of fact and conclusions of law, REVERSES AND ORDERS the Department to retroactively reopen the claimant's FIP and replace any lost benefits.

/s/
Michael J. Bennane
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 05/19/09

Date Mailed: 05/19/09

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.

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