

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: 2009-16523
Issue No: 1021
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
May 14, 2009
Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Jeanne M. VanderHeide

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 hearing. After due notice, a telephone hearing was conducted from Detroit, Michigan on May 14, 2009. The Claimant appeared and testified. Rhonda Jones, FIS and Gregory Posey, FIM appeared on behalf of the Department.

ISSUE

Whether the Department properly issued a negative action effective 2/27/09 on Claimant's FIP case for a failure to attend Work First?

FINDINGS OF FACT

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

1. Claimant is an active FIP recipient.
2. Claimant was attending JET in December of 2009 and at some point stopped attending JET.

3. Claimant notified the Department that she was not attending JET and Claimant was subsequently scheduled for JET orientation on 2/9/09. A notice was sent regarding same on 2/3/09. (Exhibit 1, p. 1).
4. Claimant testified that she received the notice on 2/9/09 the same day that she was required to attend.
5. Claimant has a two and ½ year old disabled daughter for whom she needs to arrange child care before attending.
6. Claimant testified that she telephoned her caseworker and her JET coordinator to let them know that she just received the notice but could not attend that day.
7. Claimant testified that the JET coordinator instructed her not to come the next day to JET either as Claimant would have missed the introductory information.
8. The Department placed Claimant in noncompliance. (Exhibit 1, p. 7).
9. A triage was scheduled for 2/27/09. (Exhibit 1, p. 6).
10. Claimant testified that she never received the triage meeting notice.
11. Claimant did not appear for the triage on 2/27/09.
12. The Department placed Claimant's case into negative action on 12/27/09.
13. Claimant will begin attending JET again next Monday.
14. On March 9, 2009, the Department received the Claimant's written hearing request.
15. Claimant is still receiving FIP benefits.

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).

Federal and State laws require each work eligible individual in a FIP group to participate in the Jobs, Education and Training (JET) Program or other employment-related activities unless temporarily deferred or engaged in activities that meet participation requirements. PEM 230A. All work eligible individuals who fail, without good cause, to participate in employment or self-sufficiency-related activities will be penalized. PEM 233A. Failure to appear at a JET program results in noncompliance. Id.

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 at 4. The penalty for noncompliance without good cause is FIP closure. Id. at 6. If good cause is established the negative action is to be deleted. Id. at 12.

In this case, Claimant testified credibly that she did not receive notice of the 2/9/09 JET orientation until the day of the orientation. This was a factor beyond the control of the Claimant. Therefore, the undersigned finds that Claimant has shown good cause for not attending JET orientation on 2/9/09. The undersigned finds Claimant's testimony that she did not receive the triage notice credible. Furthermore, the triage would not have been scheduled but for missing the 2/9/09 orientation date. Therefore, the undersigned finds that Claimant should not be penalized for missing the triage.

Based upon the foregoing facts and relevant law, it is found that the Department's determination is REVERSED.

DECISION AND ORDER

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

Accordingly, it is ORDERED:

1. The Department's negative action for noncompliance, effective 2/27/09, shall be deleted.
2. The Department shall supplement the Claimant with any lost benefits she was otherwise entitled to receive.
3. The parties shall endeavor to communicate amicably with one another.

/s/

Jeanne M. VanderHeide
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 05/20/09

Date Mailed: 05/26/09

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 mailing 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.

JV/dj

cc:

