

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: 2009-17582
Issue No: 1021
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
May 13, 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 on April 2, 2009. After due notice, a hearing was conducted on May 13, 2009. The Claimant appeared and testified. Dayna Anderson, FIM and Francine Harrison, FIS appeared on behalf of the Department.

ISSUE

Whether the Department properly issued a negative action 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 was an active FIP recipient who was referred to JET.
2. Claimant was scheduled for Work First activities initially in November of 2008.
3. Claimant testified that she requested to attend Certified Nursing Assistant ("CNA") schooling.

4. Claimant did not initially pass the CNA referral test. However, Claimant retook the CNA test in November of 2008, paid for by her own funds, and passed.
5. Claimant testified that she then requested a deferral from Work First to attend the CNA education program.
6. Claimant attended Work First in December and January. Claimant attended periodically 1/19/09-1/23/09.
7. Claimant testified that she was admitted to the CNA training program in January of 2009. Because she was unable to get an official referral from Work First, Claimant opted to pay for the training herself.
8. Claimant testified that she attempted to contact the Department to discuss a Work First deferral while she was attending the CNA training program.
9. There is no documentation of a Department denial of Claimant's request for deferral.
10. On 1/26/09, Claimant was scheduled to attend a forum. Claimant did not attend.
11. A triage was scheduled on 2/12/09 for failing to participate in Work First.
12. On the triage date and time, Claimant testified that she was finishing up her clinicals at the [REDACTED] home.
13. Claimant testified that she has completed her CNA education but for the final exam. Claimant currently does not have the cash to pay for the examination fee.
14. Claimant's FIP case was closed on 2/21/09 for noncompliance.
15. On April 2, 2009, the Department received the Claimant's written hearing request.

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.* A client can request a deferral from Work First. When a request for deferral is not granted, the Department is required to document the basis of the decision for denial and advise the client of their right to discuss the deferral decision with a supervisor and file a grievance if the client disagrees with the activities assigned at JET. PEM 230A, p. 19.

In this case, the Claimant provided credible testimony that she was actively engaged in an activity that should have resulted in a JET deferral. Claimant proved that she was able to pass the CNA training by paying for and passing the initial intake examination on her own. Claimant also testified credibly that she attempted to inform the Department that she was attending CNA training and was requesting a deferral from Work First during the training. Since the Department never officially denied Claimant's request for a deferral, the undersigned finds that Claimant has shown good cause for not attending Work First. Furthermore, Claimant testified credibly that she was in CNA training during the triage appointment. The undersigned, therefore, finds that Claimant has shown good cause for not attending the triage appointment.

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 and case closure of 2/21/09 for noncompliance for missing Work First shall be deleted.
2. The Department shall supplement the Claimant with any lost benefits she was otherwise entitled to receive.

/s/

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

Date Signed: 05/21/09

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:

