

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.: 2009-19705
Issue No.: 1038
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
September 28, 2009
Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Linda Steadley Schwarb

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon claimant's request for a hearing. After due notice, a hearing was held on September 28, 2009. The claimant appeared and testified.

ISSUE

Does the Department of Human Services (DHS or department) properly propose to penalize claimant's Family Independence Program (FIP) case for failure to participate in Jobs, Education, and Training (JET)/Work First (WF) programming?

FINDINGS OF FACT

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

- 1) Claimant is an ongoing recipient of FIP benefits and a mandatory JET/WF participant.
- 2) Claimant maintains that she has a severe visual impairment which affects her ability to participate in JET/WF activities.

- 3) Claimant has provided the department with documentation of her visual impairment.
- 4) The department has not considered claimant's visual impairment with regard to an appropriate "reasonable accommodation" and/or deferment from participation in JET/WF programming.
- 5) On May 20, 2009, the department notified claimant that it intended to terminate her FIP benefits effective March 4, 2009 because of claimant's failure to participate in JET/WF.
- 6) On February 27, 2009, claimant filed a timely hearing request to protest the department's proposed negative action.
- 7) Thereafter, the department deleted its proposed negative pending the outcome of the instant hearing.
- 8) At the hearing, neither the departmental worker nor a JET/WF representative were available to react to claimant's testimony that she had contacted a WF representative about transportation problems and that the WF representative had told claimant that she would be rescheduled for a future WF assignment.

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 (DHS or department) 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).

Relevant departmental policy in this matter is as follows:

Failure to Meet Employment and/or Self-Sufficiency-Related Requirements: FIP

DHS requires clients to participate in employment and self-sufficiency-related activities and to accept employment when offered. Our focus is to assist clients in removing barriers so they can participate in activities which lead to self-sufficiency. However, there are consequences for a client who refuses to participate, without good cause...

All Work Eligible Individuals (WEI)...who fail, without good cause, to participate in employment or self-sufficiency-related activities must be penalized. PEM Item 233A, Page 1.

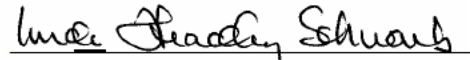
In this matter, claimant is a mandatory JET/WF participant. She has not been deferred from participation nor offered any reasonable accommodations regarding her documented visual impairment. The department proposes to penalize claimant for an alleged failure to participate in JET/WF activities (failure to attend an orientation). At the hearing, the department was unable to refute or substantiate claimant's assertion that she had contacted WF about the scheduled orientation and had been told that it would be rescheduled. Under the circumstances, the department was unable to establish that claimant failed to participate in JET/WF activities without good cause. Accordingly, the department's proposed negative action in this matter must be set aside. The department is ordered to continue claimant's FIP benefits if she is otherwise eligible for same. At the hearing, the department acknowledged the need to consider claimant's eligibility for a deferral or reasonable accommodation with regard to claimant's alleged visual impairment.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department of Human Services has failed to establish that claimant's

Family Independence Program benefits must be penalized as a result of failure to participate in Jobs, Education, and Training/Work First programming.

Accordingly, the department's proposed action in this matter is hereby REVERSED. The department is ORDERED to maintain claimant's Family Independence Program benefits if claimant is otherwise eligible for same.


Linda Steadley Schwarz
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 09/30/09

Date Mailed: 10/01/09

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.

LSS/dj

cc:

