

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: 2009-20028

Issue No: 1013

Case No:

[REDACTED]

Load No:

Hearing Date:

June 10, 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 June 10, 2009. The Claimant appeared and testified. Brad Schafer, JET Employment Consultant, Nakesha Woods, FIM and Joyce Espress, FIS appeared on behalf of the Department.

ISSUE

Whether the Department properly issued a negative action effective 4/14/09 on Claimant's FIP case for a failure to comply with Work First requirements?

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 a FIP recipient.
2. Claimant was referred to Work First.

3. The Department testified that Claimant was required to do 30 hours of core jobs each week, but that Claimant did not meet her hours on a consistent basis.

4. Claimant's logged Work First hours are as follows:

<u>WEEK</u>	<u>HOURS</u>
1/18/08	21
1/25/09	0
2/1/09	0
2/8/09	-
2/15/09	21
2/22/09	35
3/1/09	31
3/15/09	0

(Exhibit 1, p. 7).

5. In addition, Claimant was enrolled in school at [REDACTED]. Claimant testified that she would come to Work First on the bus after school.

6. As a result, Claimant often arrived after the sign in time of 8:30-11:30 so the sign in sheets were kept behind the desk so that Claimant could access them.

7. Claimant's classes at [REDACTED] did not count towards a deferral of Work First.

8. Claimant testified that she was able to meet her Work First hours when she was allowed to do her job search on the internet.

9. The Department testified that Claimant was only allowed to use the internet for 50% of her job searches.

10. Claimant testified that she was responsible for taking her son to and from school and that she had difficulties in January and February because of a lack of child care.
11. The Department testified that Claimant was authorized for full day care benefits from 1/09-4/09.
12. Claimant testified that on 3/18/09, she forgot to sign the time sheet at the bottom and that's why she missed hours in March.
13. The Department testified that it instructed Claimant on proper sign in techniques several times.
14. On 3/30/09, the Department mailed Claimant a notice of noncompliance along with notice of triage to occur on 4/9/09. Claimant did not attend. (Exhibit 1, p. 10).
15. The Department entered a negative action for noncompliance with Work First on 4/14/09.
16. On April 13, 2009, the Department received the Claimant's written hearing request.
17. Claimant is currently 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. Good cause includes the following:

1. Client being employed 40 hours per week and earning minimum wage;
2. Client being physically or mentally unfit for the job or activity as shown by medical evidence or other reliable information;
3. Illness or injury for client or family member;
4. Failure by the Department to make reasonable accommodation for Client's disability;
5. No appropriate, suitable, affordable and reasonably close child care;
6. No transportation;
7. Unplanned event such as domestic violence, health or safety risk, religion, homelessness, jail or hospitalization;
8. Long commute.

PEM 233A, pp. 3-4.

Furthermore, a client can be deferred from JET requirements under certain circumstances, including enrollment in an approved education program. PEM 230B. A student enrolled at least **half time** in any recognized school, training program or institution of higher education meets the employment-related activities requirement. This includes persons attending school for GED or adult high school completion. The post-secondary education plan is an *approved* employment-related activity if, in the judgment of local office DHS staff, it enhances the client's employability. PEM 230B, p. 5.

In this case, the Claimant indicated that she was having difficulty completing her work first hours while attending school. Claimant had obligations of dropping off and picking up her son from school and it was understandably difficult to take the bus, complete 12 credit hours of classes, and also complete 30 hours of Work First in the same week. Claimant's logged hours indicate that there was a long standing difficulty in complying with the Work First requirements. Claimant indicated a variety of explanations for her failure to log the required number of hours. The lack of childcare is the only one that would qualify as good cause and the undersigned finds credible the Department's testimony that Claimant was approved for full day care benefits. While the Department was attempting to accommodate Claimant's school schedule by allowing Claimant to sign in late, only approved schooling can defer Work First requirements. Therefore, as Claimant's schooling did not meet the requirements for a school deferment, Claimant was still required to meet the 30 hour Work First Requirement. The evidence reveals that Claimant was unable to do this on a consistent basis.

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

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds the Department's determination is upheld.

Accordingly, it is Ordered:

1. The Department's 4/14/09 negative action for noncompliance is AFFIRMED.

/s/

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

Date Signed: 06/18/09

Date Mailed: 06/22/09

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:

