

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.: 2009-20029
Issue No.: 1038
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
June 18, 2009
Wayne County DHS (49)

ADMINISTRATIVE LAW JUDGE: Colleen M. Mamelka

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 a hearing. After due notice, a hearing was held in Detroit, Michigan on Thursday, June 18, 2009. The Claimant appeared and testified. The Claimant was represented by [REDACTED], [REDACTED] and [REDACTED] appeared on behalf of the Department.

ISSUE

Whether the Department properly terminated the Claimant's FIP benefits effective March 10, 2009 due to non-compliance with the Jobs, Education, and Training ("JET") program?

FINDINGS OF FACT

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

1. The Claimant was a FIP recipient.
2. The Claimant was referred for triage due to non-compliance with the Jobs, Education, and Training ("JET") program.

3. On February 26, 2009, the Department pended the Claimant's FIP benefits for closure due to JET non-compliance. (Exhibit 1)
4. The Claimant did not attend the triage.
5. The Claimant contacted the Department regarding the negative action notice and was told to submit an updated Medical Needs form to determine whether the Claimant was eligible for a JET deferral.
6. On March 6, 2009, the Claimant's physician completed a Medical Needs form. (Exhibit 3)
7. The Department acknowledged receipt of the Medical Needs form but was not sure as to the date. (Exhibit 4)
8. The Claimant's FIP benefits terminated on March 10, 2009.
9. On April 9th and April 14th, 2009, the Department received the Claimant's written hearing requests. (Exhibits 1, 2)

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"), formally 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").

DHS requires clients to participate in employment and self-sufficiency related activities and to accept employment when offered. PEM 233A The Family Self-Sufficiency Plan (“FSSP”) was created to allow DHS and other DHS client service providers to share information about mutual clients for optimal case management. PEM 228 The FSSP seeks to assist clients to achieve self-sufficiency, whenever possible, by identifying and removing barriers. PEM 228 All Work Eligible Individuals (“WEI”) are required to participate in the development of FSSP unless good cause exists. PEM 228 As a condition of eligibility, all WEIs must engage in employment and/or self-sufficiency related activities. PEM 233A The WEI is considered non-compliant for failing or refusing to appear and participate with the Jobs, Education, and Training Program (“JET”) or other employment service provider. PEM 233A 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 Failure to comply without good cause results in FIP closure. PEM 233A The first and second occurrences of non-compliance results in a 3 month FIP closure. PEM 233A The third occurrence results in a 12 month sanction.

JET participants will not be terminated from a JET program without first scheduling a triage meeting with the client to jointly discuss noncompliance and good cause. PEM 233A In processing a FIP closure, the Department is required to send the client a notice of non-compliance, DHS-2444, which must include the date(s) of the non-compliance; the reason the client was determined to be non-compliant; and the penalty duration. PEM 233A In addition, a triage must be held within the negative action period. *Id.* A good cause determination is made during the hearing and prior to the negative action effective date. *Id.*

In the record presented, the Claimant was previously deferred from JET participation. Subsequently, the Claimant was referred to the JET program. The Claimant did not participate as required and her case was pended for closure. Upon receipt of the negative action, the Claimant contacted the Department about a continued deferral. The Claimant was instructed to submit an updated Medical Needs form prior to the closure date of March 10th. On March 6, 2009, the Claimant's treating physician completed the form. The Department acknowledged receipt of the form but was not sure whether it was before or after closure. Conversely, the Claimant testified the form was submitted prior to closure. There was no evidence that the Claimant had refused to cooperate or was otherwise non-compliant. Ultimately, under these facts, the Department's actions are not upheld.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department failed to establish it acted in accordance with department policy when it terminated the Claimant's FIP benefits.

Accordingly, it is ORDERED:

1. The Department's termination of the Claimant's FIP benefits is REVERSED.
2. The 3-month FIP sanction is not imposed.
3. The Department shall supplement the Claimant for any lost benefits she was entitled to receive if otherwise eligible and qualified in accordance with department policy.

/s/

Colleen M. Mamelka
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 06/24/09

Date Mailed: 06/24/09

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.

CMM/jlg

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