

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: 2009-20386
Issue No: 1021, 1038
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
June 4, 2009
Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Tyra L. Wright

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 June 4, 2009. Claimant personally appeared and testified. An employment consultant with the involved Work First agency appeared and testified. A family independence specialist represented the Department.

ISSUE

Did the Department properly determine that Claimant should be sanctioned by closing her Family Independence Program (FIP) case because a contractor refused to allow her to attend the Jobs, Education and Training (JET) program operated at its facility?

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 a recipient of FIP for a group size of two that includes herself and her three-year-old son.

- (2) She receives \$403 in monthly FIP benefits.
- (3) The Department required Claimant to attend Michigan Works/JET.
- (4) In March 2009, the Work First/JET contractor determined that Claimant's attitude and behavior warranted refusing to allow her to attend JET.
- (5) As a result of the contractor's decision, the Department sent Claimant a notice of negative action to inform her that her case would be closed as a sanction for failing to attend JET. In response, Claimant timely filed a request for hearing which caused the Department to delete the negative action pending the outcome of this hearing.
- (6) Prior to the negative action, Claimant had been frustrated with the JET contractor because of problems with paperwork.
- (7) It is found that the JET contractor told Claimant not to return based on incidents that happened in February 2009 and March 2009.
- (8) On February 3, 2009, the JET contractor mistakenly believed that Claimant had not attended JET. Consequently, the Call Center called Claimant at home about the "absence." Upset about the call because she was not absent from JET, the Claimant voiced her displeasure when she went to JET the next day. The JET worker contends that Claimant was rude, aggressive, and abusive when discussing the mistake, which included slamming a clipboard on the worker's desk. Claimant admitted that she was upset but denied that she cursed at anyone.
- (9) The JET contractor has a policy that does not allow children in the JET office building. On March 2, 2009, Claimant came to the JET building with her three-year-old son and a friend. JET workers were concerned that the young boy might

be injured because of reports that the boy was placing his hands and fingers near the door hinge. So workers told the Claimant that children were not allowed in the building. Claimant contends that her son never entered the building that day. Instead, he remained right outside the door with Claimant's friend.

- (10) On March 11, 2009, Claimant went to the JET office for a brief visit and had to bring her son because she did not have a babysitter. Claimant allowed the boy to sit in a chair in the corner of the room while she was at the JET office. Again, she was told that children were not allowed in the JET building. Claimant contends that clients sometimes bring their children into the JET building despite the policy. The JET worker asserted that clients "occasionally" do bring their children into the building and are always told that doing so is against JET policy.
- (11) Claimant asserted that she does get upset with JET workers because of perceiving them to be incompetent because they have lost or mishandled her paperwork in the past. Claimant denied that she ever cursed at workers or called workers names. The JET worker confirmed Claimant never called her any names but that her attitude and behavior were rude and aggressive and that she has used the words "shit" and "damn" when upset.
- (12) The Department received Claimant's hearing requests on April 17, 2009.

CONCLUSION

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 for FIP are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

DEPARTMENT POLICY

FIP, RAP Cash

Federal and State laws require each work eligible individual (WEI) in the FIP and RAP 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. These clients must participate in employment and/or self-sufficiency related activities to increase their employability and obtain stable employment. (PEM 230A, pg. 1)

**NONCOMPLIANCE PENALTIES FOR
ACTIVE FIP CASES AND MEMBER ADDS**

The penalty for noncompliance without good cause is FIP closure. Effective April 1, 2007, the following minimum penalties apply:

- For the first occurrence on the FIP case, close the FIP for not less than three calendar months unless the client is excused from the noncompliance as noted in First Case Noncompliance Without Loss of Benefits below.
- For the second occurrence on the FIP case, close the FIP for not less than three calendar months.
- For the third and subsequent occurrence on the FIP case, close the FIP for not less than 12 calendar months. (PEM 233A, pg. 6)

Responsibility to Cooperate All Programs

Clients must cooperate with the local office in determining initial and ongoing eligibility. This includes completion of necessary forms. (PAM 105, p. 5)

Refusal to Cooperate Penalties

All Programs

Clients who are able but refuse to provide necessary information or take a required action are subject to penalties. (PAM 105, p. 5)

In determining this case, it was necessary to weigh the credibility of the witnesses. Claimant's testimony was found to be largely consistent with the JET worker's testimony, and both were credible. As a result, this Administrative Law Judge finds it likely that Claimant's reaction to correction from JET workers as well as to their mistakes likely was very emotional. Because, however, she was not accused of threatening a worker, did not call any worker names, and has complied with JET requirements, this Administrative Law Judge has determined that the evidence did not establish that Claimant's behavior rose to the level that justifies preventing her from participating in any JET program. Under these circumstances, it is found that Claimant should not be sanctioned because the JET contractor involved does not want Claimant to return.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department's decision to close Claimant's FIP case as a sanction was not proper.

Accordingly, the Department's decision is REVERSED. The Department is ORDERED to allow Claimant to return to a JET program.

/s/

Tyra L. Wright
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 06/11/09

Date Mailed: 06/15/09

TW/dj

2009-20386/TW

cc:

