

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: 2009-20394
Issue No: 1021
Case No: [REDACTED]
Load No: [REDACTED]
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 hearing was conducted on June 10, 2009. The Claimant appeared and testified. Charles Forster, JET Worker appeared on behalf of the Department.

ISSUE

Whether the Department properly issued a negative action on Claimant's FIP case for 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 required to attend Work First Activities in March of 2009.
3. Claimant did not show for Work First Activities on 3/2/09, 3/3/09, or 3/4/09.

4. Claimant testified that she obtained a job at [REDACTED]. Claimant went through two weeks of training and worked for two days. Claimant testified that she was fired after it was discovered that she was pregnant.
5. Claimant also testified that she took a verification of employment form to her employer and the employer refused to fill it out. Claimant has not been paid for her time worked.
6. The Department scheduled a triage meeting on 3/26/09. Claimant did not attend. (Exhibit 1, p. 1).
7. Claimant signed in on the drop off log at the local district office indicating that she was requesting a hearing on 3/30/09. This hearing request was evidently lost in the mailroom.
8. On April 16, 2009, the Department received the Claimant's written hearing request.
9. Claimant is 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. 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.

Good cause for noncompliance can be satisfied by the person working at least 40 hours per week on average and earning at least state minimum wage. PEM 233A. The client's actual hours of participation in paid work activities must be verified by showing two consecutive pay check stubs or wage statements that reflect the average number of hours worked by the client. These or a collateral contact with the client's manager or supervisor meets the requirement to project the client's hours for six months. PEM 230A.

In this case, the Claimant provided testimony that she was actively working which would be good cause for not appearing for JET activities. Claimant also testified, however, that she was unable to obtain verification of her work activity. Claimant testified that she was working at [REDACTED], a pub type restaurant, in [REDACTED]. Claimant testified that she underwent two weeks of training without pay. It is difficult to comprehend that Claimant would have been required to attend such extensive training for a restaurant position or that there would not have been some sort of paperwork required before beginning the training. If Claimant had a copy of anything that she signed identifying the employment, Claimant would have something to show verification of her employment. Furthermore, Claimant did not appear for the scheduled triage appointment or call to explain that she was still working.

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 that the Department properly found Claimant in noncompliance with Work First activities on 3/26/09.

Accordingly, the Department's 3/26/09 negative action 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:

