

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: 2009-21261
Issue No: 1021
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
June 8, 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 on April 14, 2009. After due notice, a hearing was conducted on June 8, 2009. The Claimant appeared and testified. Vivian Turner, FIM and Geraldine Garry, FIS appeared on behalf of the Department.

ISSUE

Whether the Department properly issued a negative action on Claimant's FIP and FAP cases for a 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 attended JET orientation 9/16/08 – 10/3/08. (Exhibit 1)
3. Claimant testified that she was attending [REDACTED] to obtain her GED as well.

4. Claimant testified that she is currently attending [REDACTED] and will graduate [REDACTED].
5. The Department testified that Claimant was noncompliant with Work First activities, but it is unclear from the testimony why Claimant was considered noncompliant.
6. The Department testified that a triage was scheduled and Claimant did not attend; however, there was no triage notice provided in the hearing packet.
7. Claimant testified that she never received notice of a triage date.
8. On 1/22/09, Claimant's FIP case was closed for noncompliance and Claimant was removed from the FAP family budget for noncompliance.
9. On April 14, 2009, the Department received the Claimant's written hearing request.

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).

The Food Assistance Program (FAP) (formerly known as the Food Stamp (FS) program) is established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations (CFR). The Department of Human Services (formerly known as the Family Independence Agency) administers the FAP

program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3001-3015. 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.

The Department's representative in this hearing was not familiar with the Claimant's case, and the caseworker that handled Claimant's case at the time of the alleged noncompliance was not available. No JET worker was present. Documentation provided by the Department for this hearing was very scarce and consisted of two pages of exhibits – a participant history and a FAP budget dated 4/6/09. No notice of a noncompliance or triage appointment was included. The Department indicated that it would fax over additional notes from the JET worker, however, they were never received. Due to the lack of testimony or documentation, the undersigned finds that the Department has failed to prove that Claimant was noncompliant with Work First.

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

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds the Department's determination is not upheld.

Accordingly, it is ORDERED:

1. The Department's negative action and case closure of 1/22/09 for noncompliance for missing Work First shall be deleted.

2. The Department shall reopen Claimant's FIP cases as of the date of closure, 1/22/09 and supplement the Claimant with any lost FIP and FAP benefits she was otherwise entitled to receive.

/s/

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

Date Signed: 06/17/09

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:

