

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

██████████,

Claimant

Reg No: 2009-22024

Issue No: 1013

Case No: ██████████

Load No: ██████████

Hearing Date:

June 17, 2009

Oakland 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 17, 2009. The Claimant appeared and testified. Willard Anzaldi, JET Coordinator and Steven Caumartin, Michigan Works Agency Contract Case Manager appeared on behalf of the Department.

ISSUE

Whether the Department properly issued a negative action effective 12/30/08 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 and was referred to Work First.

2. Claimant testified that she graduated from a medical assistance program. She also has a felony on her record.
3. On 6/12/08, Claimant and the Department had a triage to address another matter. The Department testified that, at that time, Claimant was informed that medical assistance schooling could not be accepted as a JET deferral because of Claimant's felony record. Claimant was further informed not to apply for medical assistance jobs.
4. Claimant testified that she continued to apply for medical assistance jobs as she was informed that her expungement case had been dismissed. Claimant interpreted this to mean that her expungement was granted.
5. Claimant further testified that she then began informing employers up front that she had a felony before filling out an application.
6. The Department testified that on 12/15/08 Claimant punched in at Work First but then disappeared. One of the Department representatives at the hearing testified that he personally looked for Claimant on this day, asked others if she was there, and called out but could not find her.
7. Claimant testified that on 12/15/08, she was informed by the janitor that her son (in the same building) was in trouble. Claimant left early and failed to tell anyone that she was leaving.
8. A triage was scheduled on 12/29/08. Claimant was notified of triage date by letter on 12/17/08. (Exhibit 1, p. 3).
9. At the triage, no good cause was found. Claimant then signed a JET triage personal contract agreeing to the following:

- a. Return to OPCC 1-3 p.m. and not be late or absent
- b. Not put any false information on the job log
- c. Not apply for any more medically related employ until felony is removed from record.

(Exhibit 1, pp. 5, 6).

10. The Department entered a negative action for noncompliance with Work First on 12/30/08.
11. Contrary to the signed agreement, Claimant failed to participate in Work First activities in January 2009 so the Department pended her case to close.
12. On May 13, 2009, the Department received the Claimant's written hearing request.
13. Upon filing of Claimant's hearing request, FIP benefits were reinstated.

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.

In this case, Claimant was confused about the status of her expungement case. Claimant testified that she filed for expungement in Macomb County, but the Macomb County on-line docket did not reveal any cases in Claimant's name. The Oakland County on-line docket, however, revealed one case where Claimant was listed as the Plaintiff and which was dismissed in 2008. It was explained to Claimant during the hearing that if her case is dismissed, then there is no longer an expungement case pending. Furthermore, MCL 333.20173(a) mandates that employers are not allowed to hire anyone into a medical assistant position if they have certain

felony convictions. Therefore, whether the employer accepts an application upon Claimant's felony conviction being revealed is irrelevant because the employer is legally prohibited from hiring the Claimant until such time as her record is expunged.

Furthermore, Claimant did not provide any other testimony or evidence that would provide good cause for her noncompliance with JET. 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 12/30/09 negative action for noncompliance is AFFIRMED.

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

Date Signed: 06/26/09

Date Mailed: 06/29/09

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

2009-22024/JV

cc:

