

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.: 2009-22025
Issue No.: 1038
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
July 17, 2009
Oakland County DHS (2)

ADMINISTRATIVE LAW JUDGE: Michael J. Bennane

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9; MSA 16.409 and MCL 400.37; MSA 16.437 upon the Claimant's request for a hearing. After due notice, a telephone hearing was held on July 17, 2009. The Claimant personally appeared and testified.

ISSUE

Did the Department properly close the Claimant's Family Independence Program (FIP)?

FINDINGS OF FACT

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

1. The claimant was a FIP recipient and was required to participate in employment related activities.
2. On March 3, 2009, the department sent the claimant a notice of JET noncompliance with a triage set for March 11, 2009. (Department exhibit 3).
3. The claimant is working 48 hours as a cab driver per week.

4. On March 11, 2009, the claimant did not attend the triage and the department found no good cause for the claimant's noncompliance.
5. On March 24, 2009, the department closed the claimant's FIP.
6. On March 26, 2009, the Claimant filed a request for a hearing.

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).

In the instant case, the Claimant failed to attend a JET triage called because the claimant failed to attend Jobs Education and Training (JET) and then failed to attend two scheduled triages set to discuss her lack of JET attendance.

NONCOMPLIANCE WITH EMPLOYMENT AND/OR SELF-SUFFICIENCY-RELATED ACTIVITIES

As a condition of eligibility, all WEIs and non-WEIs must work or engage in employment and/or self-sufficiency-related activities. **Noncompliance** of applicants, recipients, or member adds means doing **any** of the following **without** good cause:

Failing or refusing to:

Appear and participate with the Jobs, Education and Training (JET) Program or other employment service provider.

Complete a Family Automated Screening Tool (FAST), as assigned as the first step in the FSSP process.

Develop a Family Self-Sufficiency Plan (FSSP) or a Personal Responsibility Plan and Family Contract (PRPFC).

Comply with activities assigned to on the Family Self Sufficiency Plan (FSSP) or PRPFC.

Appear for a scheduled appointment or meeting.

Participate in employment and/or self-sufficiency-related activities.

Accept a job referral.

Complete a job application.

Appear for a job interview (see the exception below).

Stating orally or in writing a definite intent not to comply with program requirements. (PEM 233A, p. 1-2).

In the instant case, the claimant the claimant was working and the department was aware of his employment but the claimant could not get his employer to sign the employment verification. The department accepted information from the claimant as to his income and found that when divided by the minimum wage the claimant was only working twenty-three (23) hours not the thirty (30) hours required as a minimum.

DHS workers indicate the minimum number of hours a client must participate in employment and/or self-sufficiency activities by entering the correct *WF PRG* code on the DHS-2439. Select *Additional Information* codes that best describe the need for reduced hours when reasonable accommodations are necessary. Document any reduction in required hours that would apply to the client in the comments section.

The MWA uses the minimum required hours indicated by the family independence specialist (FIS) on the DHS-2439 to initially assign clients to activities that meet federal minimum participation requirements up to 40 hours per week unless DHS recorded the need for reduced hours or the MWA subsequently determined the need for reduced hours to accommodate a disability. (230A, p.4)

In this instance the department required that the claimant work thirty (30) hours per week.

Obtaining Verification

All Programs

Tell the client what verification is required, how to obtain it, and the due date (see “[Timeliness Standards](#)” in this item). Use the DHS-3503, Verification Checklist, or for MA redeterminations, the DHS-1175, MA Determination Notice, to request verification.

Use the DHS-3503C, Verification Checklist for Citizenship/Identity to request documentation of citizenship or identity for FIP, SDA, and Medicaid determinations.

The client must obtain required verification, but you must assist if they need and request help.

If neither the client nor you can obtain verification despite a reasonable effort, use the best available information. If **no** evidence is available, use your best judgment. (PAM 130, pp.2=3).

During the hearing, the department testified that although the claimant was working forty-eight (48) to fifty (50) hours per week, well over the required thirty (30) hours; when his income was divided by the minimum wage it came out to be less than the required 30 hours spent in or looking for employment.

The claimant testified that his employer charged him half of all the fares earned for the use of the cab and refused to sign any document that showed that the claimant was working for him.

I find that the claimant was in compliance with employment and/or self-sufficiency-related Activities and that he should not have been referred to JET. The department acknowledged that they were aware of the claimant’s employment. Furthermore, the department did not “use its best judgment” as to the claimant’s employment. The hours figured to be less than the required total when divided by the minimum wage were less than the required amount but they were also representative of only one week and the claimant’s income fluctuated every

week. Therefore, the claimant's income represented twenty-three (23) hours one week could easily represent far more hours another week.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, REVERSES AND ORDERS the Department reinstate the claimant's FIP back to its closing and replace any lost benefits.

/s/
Michael J. Bennane
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 08/18/09

Date Mailed: 08/18/09

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.

MJB/jlg

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