

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: 2009-23889

Issue No: 1021

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

July 1, 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 May 5, 2009. After due notice, a hearing was conducted on July 1, 2009. The Claimant appeared and testified. Latonja Degraffenreid, FIS and Damon Moon, FIM appeared on behalf of the Department.

ISSUE

Whether the Department properly issued a negative action on Claimant's FIP case 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 was attending Work First in January of 2009.
3. On 1/29/09, Claimant fell at work and hurt herself. Claimant testified that the Department gave Claimant time off until 2/9/09 in order to heal.

4. On 2/9/09, Claimant returned to work but indicated that she had problems with her pipes in her home. Claimant testified that she was given another two days to correct the water problem.
5. On 2/24/09, the Department scheduled a triage to address Claimant's failure to meet her Work First participation hours.
6. There was no testimony provided from JET or the Department regarding the days that Claimant was noncompliant.
7. The Department introduced Exhibit 1, pp. 1-3, titled "Update/View Case Notes" to show that Claimant was noncompliant. However, the Case notes do not contain any notes about which days Claimant failed to attend.
8. A Good cause determination was issued on 4/30/09 which states, "Customer will be sanctioned due to failure to provide supporting documents indicating her inability to work." It is unclear from the record for which problem or for what dates Claimant was to provide documentation. (Exhibit 1, p. 5).
9. Claimant's FIP case was closed on 4/30/09.
10. On May 5, 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).

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 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 being physically or mentally unfit for the job or activity as shown by medical evidence or other reliable information. Id. The penalty for noncompliance without good cause is FIP closure. Id. at 6. If good cause is established the negative action is to be deleted. Id. at 12.

In this case, the Administrative Law Judge finds that the Department's evidence is insufficient to meet the burden of showing that the Claimant was noncompliant. The Department provided no testimony from the JET workers as to what days Claimant missed from Work First. Furthermore, ignoring the rules of evidence regarding hearsay and whether the JET notes could even be properly admitted, the JET case notes were also insufficient to identify which days Claimant was noncompliant. Since the regulations provide that good cause is a valid reason for noncompliance, it is necessary to know the dates that Claimant was noncompliant so that Claimant can address good cause for each date. The Department has failed to provide the necessary evidence to show that Claimant was noncompliant.

The undersigned, therefore, finds that the Department has failed to show that Claimant was noncompliant with Work First requirements. 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 4/30/09 for noncompliance for missing Work First shall be deleted.
2. The Department shall supplement the Claimant with any lost benefits she was otherwise entitled to receive.

/s/

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

Date Signed: 07/08/09

Date Mailed: 07/08/09

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:

