

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: 20092750
Issue No: 1035
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
February 19, 2009
Clare County DHS

ADMINISTRATIVE LAW JUDGE: Jay W. Sexton

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon claimant's request for a hearing. After due notice, an EXPEDITED In-Person hearing was held on February 19, 2009 in Harrison. Claimant personally appeared and testified on under oath.

The department was represented by [REDACTED]

ISSUE

Did the department correctly sanction claimant's FIP case on October 20, 2008 due to claimant's failure to comply with her third JET Work First assignment for October 20, 2008?

FINDINGS OF FACT

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

- (1) Claimant and her husband are FIP recipients (household size equals five).

Claimant and her family live in Clare. Clare is five miles from Harrison.

- (2) All adult able-bodied FIP recipients are required to participate in Work First as a condition of ongoing FIP eligibility, if they are not otherwise gainfully employment.

- (3) In December 2008, claimant was not gainfully employed.

- (4) Claimant was deferred from participation from Work First, for medical reasons, between July 15 and September 15, 2008.

- (5) On September 23, 2008, the JET caseworker assigned claimant to attend a Work First orientation on September 29, 2008 in Harrison. Claimant received this notice.

- (6) On September 29, 2008, claimant failed to attend the Work First orientation in Harrison.

- (7) On September 30, the JET caseworker placed claimant's FIP case into negative action; the negative action date was October 14, 2008.

- (8) The notice of negative action (closure) was mailed to claimant.

- (9) The negative action notice informed claimant that the JET caseworker had scheduled a triage meeting to discuss good cause for October 9, 2009. The purpose of the Triage was to determine whether or not claimant had good cause for her noncompliance with her Work First assignment on September 29.

- (10) On October 8, 2008, the JET caseworker conducted a Triage meeting with claimant via telephone. Claimant told the JET caseworker she was unable to work for medical reasons.

- (11) During the Triage meeting, the JET caseworker gave claimant the opportunity to prove that she was unable to attend the Work First orientation on September 29. In the

alternative, claimant was instructed to attend a Work First orientation on October 13, 2008.

These accommodations were provided by the JET caseworker to claimant under the compliance test procedure.

(12) Based on the provisions of the compliance test (second chance), the JET caseworker deleted the FIP closure. The noncompliance test procedure is a one-time only event.

(13) The JET caseworker informed claimant that she must provide medical documentation of her reason for the noncompliance on September 29 or attend the Work First orientation on October 13. The compliance test negative action deadline was October 25.

(14) On October 8, 2005, claimant provided a medical form (DHS-54A, Medical Needs form) showing claimant **was able to** work at her “usual occupation and also able to work at **any** job.” (Exhibit A1, page 8).

(15) The JET caseworker contacted claimant via telephone and informed claimant that the doctor’s report (DHS-54A) stated she was able to work. Based on this information, the JET caseworker informed claimant that she was required to attend the Work First orientation on October 13.

(16) On October 13 claimant failed to attend (second noncompliance). Claimant failed to attend the Work First orientation due to illness.

(17) The JET caseworker rescheduled claimant to attend the Work First orientation on October 20.

(18) The claimant failed to attend the Work First orientation on October 20.

(19) On October 20, the JET caseworker placed claimant’s FIP case into negative action due to claimant’s third noncompliance with her Work First orientation assignment.

(20) On November 23, 2008, claimant timely requested a hearing. The proposed FIP negative action was deleted pending the outcome of the hearing.

(21) Claimant thinks she should be excused from the October Work First assignments because her son and husband had medical appointments in the month of October.

CONCLUSIONS OF LAW

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department of Human Services (DHS or department) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105. Department policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

The following departmental policies outline the applicable employment requirements for FIP recipients:

DHS requires clients to participate in employment-related activities and to accept employment when offered. Our focus is to assist clients in removing barriers so that they can participate in activities that lead to self-sufficiency. However, there are consequences for a client who refuses to participate in employment-related activities or refuses to accept employment, without good cause. PEM 233A.

CLARE COUNTY JET POLICY

The JET caseworker explained to claimant on several occasions that the Clare County JET policy requires FIP recipients to participate in the Michigan Works program as a condition of ongoing eligibility for benefits. PEM 229, 230A, 233A, and 233B. See also PEM 220.

The preponderance of the evidence in the record shows that the JET caseworker properly assigned claimant to attend Work First. Claimant was first assigned to attend Work First on

September 29, 2008. Claimant failed to attend and told her worker that she was unable to do so for medical reasons. The JET caseworker gave claimant a compliance test which entitled claimant to: (a) provide notice that she was physically unable to attend Work First on October 14; or (b) attend the Work First orientation on October 13. Again, claimant failed to attend her Work First assignment (second noncompliance).

On October 8, 2008, claimant provided a DHS-54A (Medical Needs form) signed by her doctor showing that she was able to work “at her usual occupation” and also able to work at “any job.”

Claimant told the caseworker that she was unable to attend Work First on October 13 due to illness. In order to accommodate claimant, the JET caseworker rescheduled claimant to attend the Work First orientation on October 20. However, the claimant failed to attend the October 20 assignment (third noncompliance) without good cause.

Based on claimant’s repeated failure to attend Work First as assigned, or in the alternative to establish a legitimate medical reason for her failure to attend, the caseworker correctly decided to sanction claimant’s FIP case on October 20, 2008.

After a careful review of the record, the Administrative Law Judge concludes that there is no evidence of arbitrary or capricious actions by the JET caseworker in sanctioning claimant’s FIP case. The record shows that the caseworker made numerous attempts to accommodate claimant so that she could complete her Work First requirement. However, for reasons not entirely clear, claimant failed to make use of the caseworker’s willingness to give her a second chance.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department's JET/Work First sanctions are correct.

Accordingly, the department's action is, hereby, AFFIRMED.

/s/ _____
Jay W. Sexton
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: February 23, 2009

Date Mailed: February 24, 2009

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.

JWS/tg

cc:

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