

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: 2009-28383

Issue No: 1038

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

September 17, 2009

Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Jonathan W. Owens

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, a hearing was held on September 17, 2009. Claimant appeared and testified.

ISSUE

Did the Department of Human Services (Department) properly sanction Claimant's Family Independence Program (FIP) for failure to complete work related activities?

FINDINGS OF FACT

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

1. October 21, 2008 the Claimant presented the Department with a DHS 54 indicating her inability to work.

2. On November 19, 2008 the Department referred Claimant to MRS.
3. On January 7, 2009 MRS referred Claimant back to the Department since the Claimant was unable to complete MRS. MRS was unable to work with the Claimant since her doctor would not release her to work.
4. On February 9, 2009 referred to MRT.
5. On March 24, 2009 MRT denied deferral.
6. On April 29, 2009 sent appoint to work-first for May 11, 2009.
7. On May 11, 2009 the Claimant failed to appear for appointment.
8. On May 27, 2009 a notice of non-compliance was sent.
9. On June 4, 2009 the Department determined the Claimant failed to have good cause for not attending work-first.
10. On June 3, 2009 the Claimant filed a 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 (DHS or Department) 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).

Relevant policy section PEM 233A, p. 4-6:

GOOD CAUSE FOR NONCOMPLIANCE

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. A claim of good cause must be verified and documented for member adds and recipients. Document the good cause determination on the DHS-71, Good Cause Determination and the FSSP under the Participation and Compliance tab.

See [School Attendance](#) PEM 201 for good cause when minor parents do not attend school.

If it is determined during triage the client has good cause, and good cause issues have been resolved, send the client back to JET. Do not do a new JET referral.

Good cause includes the following:

Employed 40 Hours

The person is working at least 40 hours per week on average and earning at least state minimum wage.

Client Unfit

The client is physically or mentally unfit for the job or activity, as shown by medical evidence or other reliable information. This includes any disability-related limitations that preclude participation in a work and/or self-sufficiency-related activity. The disability-related needs or limitations may not have been identified or assessed prior to the noncompliance.

Illness or Injury

The client has a debilitating illness or injury, or an immediate family member's illness or injury requires in-home care by the client.

Reasonable Accommodation

The DHS, employment services provider, contractor, agency, or employer failed to make reasonable accommodations for the client's disability or the client's needs related to the disability.

No Child Care

The client requested child day care services (CDC) from DHS, the MWA, or other employment services provider prior to case closure for noncompliance and CDC is needed for a CDC-eligible child, but none is appropriate, suitable, affordable and within reasonable distance of the client's home or work site.

Appropriate. The care is appropriate to the child's age, disabilities and other conditions.

Reasonable distance. The total commuting time to and from work and child care facilities does not exceed three hours per day.

Suitable provider. The provider meets applicable state and local standards. Also, providers (e.g., relatives) who are NOT registered/licensed by the DHS Office of Child and Adult Services must meet DHS enrollment requirements for day care aides or relative care providers. See PEM 704.

Affordable. The child care is provided at the rate of payment or reimbursement offered by DHS.

No Transportation

The client requested transportation services from DHS, the MWA, or other employment services provider prior to case closure and reasonably priced transportation is not available to the client.

Illegal Activities

The employment involves illegal activities.

Discrimination

The client experiences discrimination on the basis of age, race, disability, gender, color, national origin, religious beliefs, etc.

Unplanned Event or Factor

Credible information indicates an unplanned event or factor which likely prevents or significantly interferes with employment and/or self-sufficiency-related activities. Unplanned events or factors include, but are not limited to the following:

- Domestic violence.
- Health or safety risk.
- Religion.
- Homelessness.
- Jail.
- Hospitalization.

Comparable Work

The client quits to assume employment comparable in salary and hours. The new hiring must occur before the quit.

In the present case, the Claimant's FIP case was closed due to failure to attend Work-First/JET. The Claimant testified she is unable to comply with attending work-first due to a medical condition. The Claimant had given the Department information regarding a significant heart condition. The Department had sent this information into MRT for a determination regarding a deferral. The MRT determined the Claimant was in fact capable of attending work first. MRT totally disregarded the medical evidence provided which included forms completed by the Claimant's cardiologist indicating she should not be expected to work or perform work activities.

The Department properly assigned the Claimant to work first after the deferral from work first was denied. However the Claimant again stated at TRIAGE her medical condition prevented her from participating. The Claimant presented at hearing a letter from her treating cardiologist indicating the Claimant has documented congenital heart disease which was complicated by her pregnancy in 2007. According to this physician the claimant should be considered medically disabled and unable to work. The Claimant's heart classification is II-III which indicates marked restrictions on physical activity. However MRT found the Claimant capable of lifting up to 50lbs on occasional basis and up to 20lbs on a frequent basis. It is obvious MRT disregarded the heart classification when it determined the Claimant's abilities.

Therefore the this Administrative Law Judge finds the Claimant had good cause for not attending work-first due to her illness. Therefore the Department shall remove the sanction and reinstate benefits.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department of Human Services was not acting in compliance with Department policy.

Accordingly, the Department's decision is REVERSED and the Department shall remove the negative action and supplement the Claimant for any loss in benefits.

/s/
Jonathan W. Owens
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 10/6/09

Date Mailed: 10/7/09

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.

JWO/at

cc:

