

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: 2009-30113

Issue No: 1038

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

September 21, 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 21, 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 the required hours for the JET program?

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. On May 18, 2009 Department sent notice of non-compliance and TRIAGE appointment for May 22, 2009 due to the JET program requesting the TRIAGE due to the Claimant's failure to complete the required hours for the program.

2. On May 22, 2009 the Claimant appeared for the triage. The Claimant stated she had put in the required hours for the program. The Department determined the weekend baby sitting is under employment since the Claimant is only paid \$4 an hour. Therefore she may be working 20 hours but the Department determined since it was underemployment she was really only working 10.26 hours a week.
3. On May 27, 2009 the sanction was placed on Claimant's case.
4. The Claimant filed a hearing request on May 22, 2009.

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. 1:

FIP

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 they can participate in activities which 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.

A mandatory participant who fails, without good cause, to participate in an employment-related activity, must be penalized.

Noncompliance for mandatory applicants, recipients, or member adds means doing **any** of the following **without** good cause:

Failing or refusing to:

- Appear for a scheduled appointment or meeting as required by the Michigan Works! Agency (MWA) or other contractor.
- Participate in employment-related activities required by the MWA or other contractor.
- Accept a job referral as required by the MWA or other contractor.
- Complete a job application as required by the MWA or other contractor.
- Appear for a job interview as required by the MWA or other contractor (see the exception below).
- Stating orally or in writing a definite intent not to comply with program requirements.
- Threatening, physically abusing or otherwise behaving disruptively toward anyone conducting or participating in an employment-related activity.
- Refusing employment support services if the refusal prevents participation in an employment-related activity.
- Refusing suitable employment. Refusing suitable employment means doing **any** of the following:
 - Refusing a bona fide offer of employment or additional hours up to 40 hours per week. A bona fide offer of employment means a definite offer paying wages of at least the applicable federal or state minimum wage. The employment may be on a shift; full or part time up to 40 hours per week; and temporary, seasonal or permanent.

In the present case, the Claimant was sanctioned for failure to complete the required hours of participation. According to the Claimant she was working on the weekends babysitting 20 hours. The Claimant is required to have in any combination hours of work and/or participation hours with JET equaling a minimum of 30 hours a week. The JET program documents indicate the Claimant had an ongoing issue with

achieving the required hours of participation. The Claimant stated she did in fact put in the minimum hours and in some weeks she stated she exceeded the minimum. The Claimant was unable to indicate the exact number of hours she worked and the number of hours she participated in JET activities for the weeks in question. The Department documents indicate the Claimant was not completing the required hours. The Department held a TRIAGE and the Claimant indicated she was completing the hours. The Department determined that the Claimant had failed to meet the required hours of participation based upon the JET program reports and the fact the Claimant is currently working as a babysitter making less than the state minimum wage. The Department calculated the actual countable hours for the Claimant's sitting job was 10.26 hours a week and not 20 hours.

The question before this Administrative Law Judge is whether the Claimant complied with the required hours. The documentation provided by the Department supports a finding that the Claimant was not in compliance with the required hours of participation and the Department properly sanctioned the Claimant's FIP case.

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 acting in compliance with Department policy.

Accordingly, the Department's decision is AFFIRMED.

/s/

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

Date Signed: 9/29/09

Date Mailed: 9/30/09

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:

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