

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: 2009-30365
Issue No: 1021
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
August 27, 2009
Oakland 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. After due notice, a hearing was conducted on August 27, 2009. The Claimant appeared and testified. Rena Valentine, 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 working 20 hours per week and attending Work First five hours per week in 2009.

3. There was no one from the Work First or the Department who could testify as to the dates of when Claimant's alleged non compliance.
4. The Update notes indicate that "Customer not working 20 hours weekly." (Exhibit C).
5. Claimant testified that she attended Work First for the required five (5) hours per week.
6. Claimant testified that when her work hours decreased, she attempted to put in more hours at JET, but was denied by the JET manager as Claimant's JET worker was on vacation for two weeks.
7. Claimant also testified that she had difficulty because she was only given 30 hours of CDC every two weeks during the summer when her kids were off and Claimant was required to work 20 hours per week.
8. On 7/13/09, the Department scheduled a triage to address Claimant's failure to meet her Work First participation hours. No good cause was found. (Exhibit B).
9. Claimant's FIP case was closed for a three month sanction.
10. On July 13, 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.

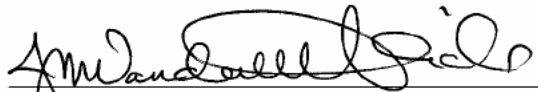
The undersigned, therefore, finds that the Department has failed to show that Claimant was noncompliant with Work First requirements. Based upon the foregoing facts and relevant law, it is found that the Department's determination is REVERSED.

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 following triage date of 7/13/09 for noncompliance for missing Work First shall be deleted and Claimant's FIP case shall be reopened as of the date of closure.
2. The Department shall supplement the Claimant with any lost benefits she was otherwise entitled to receive.



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

Date Signed: 09/22/09

Date Mailed: 09/24/09

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.

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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:

