

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Claimant

Reg. No.: 2009-30697
Issue No.: 1038
Case No.:
Load No.:
Hearing Date:
August 24, 2009
Wayne County DHS (43)

ADMINISTRATIVE LAW JUDGE: Michael J. Bennane

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9; MSA 16.409 and MCL 400.37; MSA 16.437 upon the Claimant's request for a hearing. After due notice a telephone hearing was held on August 24, 2009. The Claimant personally appeared and testified.

ISSUE

Did the Department properly close the Claimant's Family Independence Program (FIP)?

FINDINGS OF FACT

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

1. The Claimant was an ongoing FIP recipient. The group size is five (5).
2. On July 9, 2009, the Department sent the Claimant a noncompliance notice with Jobs Education and Training (JET) with a triage scheduled for July 20, 2009. (Department exhibit 3).
3. On July 10, 2009, the Claimant filed a request for a hearing.

4. On July 20, 2009, the department found no good cause for the claimant's JET noncompliance. (Department exhibit 5).
5. On August 1, 2009, the department closed the claimant's FIP.

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).

In the instant case, the department sent the claimant a notice of noncompliance with JET. The claimant attended the triage scheduled and told the department that she had been told not to return to her JET sub contractor. The claimant states that she was not aware of the necessity to return to any other JET entity.

The department denies that this took place but did admit that the claimant may have been told not to return to the subcontractor. Jet personnel were unavailable to comment further.

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. (PEM 233A, p4).

Here, the claimant shows a record of completion of her assignment with JET on the department's own forms. There is no written documentation of any direction for the claimant to begin attending at another location or entity.

I find that the claimant had good cause for her lack of attendance after having completed the JET workshop.

Finally, it should be noted that the department erroneously closed the claimant's FIP after she had requested a hearing.

While waiting for the hearing decision, recipients must continue to receive the assistance authorized prior to the notice of negative action when the request was filed timely. Upon receipt of a timely hearing request, do one of the following that applies to the case.

Delete the pending negative action.
Reinstate program benefits to the former level for a hearing request filed because of an immediate negative action. (PEM 600, p.17).

The department erroneously, closed the claimant's FIP after she had requested a hearing in violation of the above policy.

DECISION AND ORDER

The Administrative Law Judge based on the above findings of fact and conclusions of law, REVERSES AND ODERS the Department to reopen the claimant's FIP back to the date of closure and replace any lost benefits if applicable.



Michael J. Bennane
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 11/05/09

Date Mailed: 11/05/09

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.

MJB/jlg

cc:

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