

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: 2009-34468
Issue No: 1035
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
November 24, 2009
Berrien 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 November 24, 2009, in Benton Harbor. Claimant appeared by telephone and testified.

The department was represented by Rahela Vulicevic (FIM) and William Drake (JET Worker), and Shannon Meyers (an MMWA caseworker).

ISSUE

Did the department correctly decide to sanction claimant's FIP case (September 1, 2009) due to claimant's failure to complete his Work First assignment (July 21 and July 24)?

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 his four minor children are FIP recipients (household equals five).

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

(3) In July 2009, claimant was not gainfully employed.

(4) Claimant completed a compliance test arising out of JET sanction #1 on July 20, 2009.

(5) In April 2009, assigned claimant to participate in Work First. Claimant was assigned to participate with Work First 40 hours per week.

(6) On July 21 and July 24, claimant failed to attend his Work First assignment.

(7) On September 1, 2009, the DHS JET worker placed claimant's FIP case into negative action.

(8) The Notice of Negative Action (closure) was mailed to claimant.

(9) The negative action notice (DHS-2444, Notice of Noncompliance) informed claimant that the DHS/JET caseworker had scheduled a Triage meeting to discuss claimant's good cause reasons for noncompliance. The Triage was held August 19, 2009. The purpose of the Triage was to determine whether or not claimant had good cause for his noncompliance with his Work First assignment on July 21 and July 24.

(10) On August 19, the DHS/JET caseworker conducted a Triage meeting with claimant. Claimant told the DHS/JET caseworker he was unable to work for medical reasons.

(11) During the Triage meeting, the DHS/JET caseworker gave claimant the opportunity to prove he was unable to attend Work First on July 21 and July 24 for medical reasons.

(12) During the Triage meeting, claimant provided valid doctors' excuses for July 21, 30, as well as August 7 and 12. The DHS/JET worker did not accept claimant's July 21 doctor's excuse because it was untimely (29 days late).

(13) On August 27, 2009, the claimant timely requested a hearing. The proposed FIP negative action was deleted pending the outcome of the hearing.

(14) Claimant thinks he should be excused from his July Work First assignment because: (a) he had an off work slip for July 21; and (b) he did not know he was required to promptly notify his DHS caseworker that he was unable to attend Work First due to illness.

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).

The following departmental policies outline the applicable employment requirements for FIP recipients assigned to participate in Work First:

DHS requires clients who 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. BEM 233A.

The DHS/JET caseworker explained to claimant on several occasions that the Berrien County JET Policy requires FIP recipients to participate in the Michigan Works Program as a condition of ongoing eligibility for benefits. BEM 229, 230A, 233A, and 233B. See also BEM 220.

The preponderance of the evidence in the record shows the DHS/JET caseworker properly assigned claimant to attend Work First. Claimant was first assigned to attend Work First in April 2009. Claimant failed to attend a previous Work First assignment and he was given a compliance test to permit him to continue receiving FIP.

A second Work First noncompliance occurred on July 21 and 22 when claimant again failed to complete his Work First assignment.

During the Triage meeting, claimant told the DHS/JET worker that he was unable to attend Work First on July 21 and 24 for medical reasons.

During the noncompliance meeting on August 19, 2009, claimant provided a doctor's excuse for July 21 only. The DHS/JET caseworker concluded that claimant's July 21 doctor's excuse was a valid excuse for his absence on July 21, but the DHS/JET caseworker did not accept the doctor's excuse as good cause because it was presented 29 days after the absence occurred.

Based on claimant's failure to attend Work First on July 21 and July 24, and his failure to promptly establish a legitimate medical reason for the absence, the caseworker correctly decided to sanction claimant's FIP case due to claimant's July 21 absence. Claimant did not submit a valid doctor's excuse for his July 24 absence.

After a careful review of the record, the Administrative Law Judge concludes there is no evidence of arbitrary or capricious actions by the DHS caseworker in sanctioning claimant's FIP case.

The record shows that the caseworker accommodated claimant when the first noncompliance occurred. However, because claimant did not promptly notify the DHS caseworker in July that he had a medical reason for his July 21 and July 24 absence, the DHS/JET caseworker correctly imposed a second noncompliance sanction on 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's Work First sanctions are correct.

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

SO ORDERED.

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

Date Signed: March 10, 2010

Date Mailed: March 10, 2010

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 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.

JWS/tg

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