

[REDACTED]

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.: 2009-4306

Issue No.: 1038

Case No.: [REDACTED]

Load No.: [REDACTED]

Hearing Date:

March 2, 2009

Wayne County DHS [REDACTED]

ADMINISTRATIVE LAW JUDGE: Colleen M. Mamelka

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 a hearing. After due notice, a hearing was held in Taylor, Michigan on Monday, March 2, 2009. The Claimant appeared and testified. [REDACTED] [REDACTED] appeared on behalf of the Department.

ISSUE

Whether the Department properly terminated the Claimant's FIP benefits effective November 11, 2008 due to non-compliance with the Jobs, Education, and Training ("JET") program.

FINDINGS OF FACT

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

1. The Claimant is a FIP recipient.

2. On October 20, 2008, a triage was requested regarding the Claimant's JET non-compliance. (Exhibit 1)
3. On October 30, 2008, the Claimant's FIP benefits were pended for closure effective November 11, 2008 based upon JET non-compliance. (Exhibit 2 – 3)
4. On this same date, October 30th, the Department sent a Notice of Non-compliance to the Claimant instructing her to attend a November 6, 2008 triage. (Exhibit 4)
5. The Claimant attended the triage however good cause was not established for the non-compliance. (Exhibit 5)
6. This is the Claimant's second JET non-compliance.
7. On November 6, 2008, the Department received the Claimant's request for hearing, protesting the negative action. (Exhibit 3)

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"), formally 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").

DHS requires clients to participate in employment and self-sufficiency related activities and to accept employment when offered. PEM 233A, p. 1 The Family Self-Sufficiency Plan ("FSSP") was created to allow DHS and other DHS client service providers to share information

about mutual clients for optimal case management. PEM 228, p. 1 The FSSP seeks to assist clients to achieve self-sufficiency, whenever possible, by identifying and removing barriers. PEM 228, p. 1 All Work Eligible Individuals (“WEI”) are required to participate in the development of FSSP unless good cause exists. PEM 228, p. 1 As a condition of eligibility, all WEIs must engage in employment and/or self-sufficiency related activities. PEM 233A, p. 1 The WEI is considered non-compliant for failing or refusing to appear and participate with the Jobs, Education, and Training Program (“JET”) or other employment service provider. PEM 233A, p. 1 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, p. 3 Failure to comply without good cause results in FIP closure. PEM 233A, p. 5 The first and second occurrences of non-compliance results in a 3 month FIP closure. PEM 233A, pp. 5-6 The third occurrence results in a 12 month sanction.

JET participants will not be terminated from a JET program without first scheduling a triage meeting with the client to jointly discuss noncompliance and good cause. PEM 233A, p. 7 In processing a FIP closure, the Department is required to send the client a notice of non-compliance, DHS-2444, which must include the date(s) of the non-compliance; the reason the client was determined to be non-compliant; and the penalty duration. PEM 233A, p. 8 In addition, a triage must be held within the negative action period. *Id.* A good cause determination is made during the hearing and prior to the negative action effective date. *Id.*

In the record presented, the Claimant was required to participate in [REDACTED]. The Claimant’s participation end date was extended from [REDACTED] until [REDACTED], at which time, the Claimant stated she had employment yet failed to submit the verification which would have excused her from [REDACTED]. On October 20, 2008, the Claimant presented to the

JET program stating that the employment had fallen through (it was a voluntary position) thus she did not have the verification. The Claimant was informed she was not compliant and needed to participate in [REDACTED]. The Claimant, who had adequate daycare arrangements, requested a CDC application. At this point, the parties presented conflicting testimony as to what transpired. The Department testified the Claimant became belligerent and refused [REDACTED] while the Claimant testified she may have been “rude” but never refused to comply. The triage was held on November 6th, as scheduled, resulting in a no good cause determination. Ultimately it is found that the Department established it acted in accordance with department policy when it terminated the Claimant’s FIP benefits for failing to fully comply with the JET requirements. The Department’s determination is AFFIRMED.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department acted in accordance with department policy when it terminated the Claimant’s FIP benefits.

Accordingly, it is ORDERED:

1. The Department’s termination of the Claimant’s FIP benefits is AFFIRMED.
2. The 3-month FIP sanction is imposed in accordance with department policy.

_____/s/_____
Colleen M. Mamelka
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 03/10/09

Date Mailed: 03/11/09

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.

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