

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Reg. No: 2009-4589

Issue No: 1013

Claimant

Case No:

[REDACTED]

Hearing Date:
December 17, 2008
Wayne County DHS

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 telephone hearing was conducted from Detroit, Michigan on December 17, 2008. The Claimant appeared and testified. [REDACTED]

Department.

ISSUE

Whether Department properly terminated the Claimant's FIP case due to her failure to participate in 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 as material fact:

1. The Claimant was a FIP recipient.

2. On March 31, 2008, the Claimant was placed on probation after being convicted of a criminal offense. (Exhibit 4)

3. On June 27, 2008, the Claimant injured her ankle resulting in her failing to fully participate in the JET program. (Exhibit 3)

4. On July 31, 2008, a triage was held with the Claimant based upon JET non-compliance whereby the Claimant agreed to report to the JET program on Monday, August 4, 2008. (Exhibit 2)

5. On August 4th, the Claimant notified the Department that she had re-injured her ankle over the week-end and thus was unable to report to the JET program as scheduled.

6. On Wednesday, August 6th, the Claimant presented to the JET program but was informed her file had been returned to the Department.

7. The Department was unaware of the JET non-compliance until mid-September.

8. On September 16, 2008, the Claimant's case was scheduled for closure effective September 30, 2008 due to the JET non-compliance.

9. On November 10th, the Department received the Claimant's written hearing request protesting the termination of FIP benefits. (Exhibit 6)

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).

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 provided an additional opportunity to comply with the JET program requirements. The Claimant was unable to report on the date assigned

because she had re-injured her ankle. The Claimant informed the department of her injury and reported two days later. At that time, the Claimant was not allowed to participate and was informed that her case had been sent back to the department. A Notice of Non-compliance was not sent to the Claimant regarding the August 3rd non-compliance, nor was a triage scheduled to determine whether good cause existed for the Claimant's failure to attend. Under this scenario, it is found that the Department failed to act in accordance with Department policy when it terminated the Claimant's cash assistance. The Department's determination is not upheld.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department's determination is not upheld.

Accordingly, it is Ordered:

1. The Department's determination to terminate the Claimant's FIP benefits is REVERSED.
2. A 12-month FIP sanction is not imposed.
3. The Department shall reinstate the Claimant's benefits from the date of closure and supplement the Claimant for any lost benefits the Claimant was otherwise entitled to receive in accordance with department policy.

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


Date Signed: 12/22/08

Date Mailed: 01/06/09

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.

CMM

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