

[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.: 2009-4943

Issue No.: 1038

Case No.: [REDACTED]

Load No.: [REDACTED]

Hearing Date:

March 4, 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 received by the Department on November 3, 2008. After due notice, a hearing was conducted from Detroit, Michigan on March 4, 2009. The Claimant appeared, along with [REDACTED] and testified. [REDACTED] and [REDACTED] appeared on behalf of the Department.

ISSUE

Whether the Department properly terminated the Claimant's FIP case based upon a 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 a material fact:

1. The Claimant was a FIP recipient.

2. On August 4, 2008, the Department sent the Claimant a Verification Checklist requesting a Medical Needs Form be submitted by August 14th. (Exhibits 2, 3)
3. The Claimant was previously deferred from JET participation due to medical issues regarding her daughter.
4. The Department did not receive the requested verification which resulted in a JET referral by September 26, 2008.
5. During this time period, the Claimant moved to a new address.
6. The Claimant denied receipt of the JET appointment notice.
7. On [REDACTED] the hospital where the Claimant's daughter received treatment faxed the Medical Needs form to the Department. (Exhibit 10)
8. The Claimant's case worker did not receive the facsimile.
9. On October 24, 2008, the Department sent the Claimant a Notice of JET Noncompliance, instructing her to appear for a scheduled triage on November 3, 2008. (Exhibits 5, 8)
10. The Claimant's FIP benefits were scheduled for closure effective November 6, 2008. (Exhibit 9)
11. The Claimant testified she received the triage notice on or about November 30, 2008. (Exhibit 11)
12. The Claimant received the negative action notice from Lansing and requested a hearing on November 3, 2008.
13. As a result of the Claimant's failure to appear for the triage, the Department determined that good cause was not established for the JET noncompliance. (Exhibits 6, 7)

14. The Claimant FIP benefits were terminated for the month of December 2008.
(Exhibit 12)
15. During the hearing, the Department issued a supplement for the December FIP benefits. (Exhibit 13)

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 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”), unless deferred, are required to engage in employment or participate in other approved activities. PEM 230A, pp. 1, 4 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.

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 Good cause must be verified and documented and may be based upon information already contained in the file. PEM 233A, pp. 3, 7, 8 Good cause exists when a client is physically or mentally unfit for the job or activity as shown by medical evidence or other reliable information. PEM 233A, p. 3 Good cause is based upon the best information available during the triage and prior to the negative action date. PEM 233A, p. 7 If the client does not provide a good cause reason within the negative action period, good cause is determined based upon the best information available. PEM 233A, p. 11 Failure to comply without good cause results in FIP closure. PEM 233A, p. 5 The first and second occurrences of noncompliance results in a 3 month FIP closure. PEM 233A, pp. 5-6

Clients must cooperate with the local office in determining initial and ongoing eligibility to include the completion of the necessary forms. PAM 105, p. 5 Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements. PAM 130, p. 1 Client's are allowed 10 calendar days (or other time limit specified in policy) to provide the requested verifications. PAM 130, p. 4 If the client cannot provide the verification despite a reasonable effort, the time limit should be extended no more than once. *Id.* A negative action notice is sent when the client refuses to provide the requested verifications or the time period has lapsed for the request and the client has not made a reasonable attempt to provide it. *Id.*

In this case, the Claimant was previously deferred from JET participation due to her daughter's medical issues. The Department requested an updated Medical Needs form which was returned, albeit after the initial verification checklist request date. The Department denied

receipt of the form which ultimately led to a JET referral. The Claimant denied receipt of the JET noncompliance and brought postmarked envelope from the Department to the Claimant originally postmarked October 30th with a second postmark (due to address change) of November 30, 2008. Additionally, although the Claimant submitted a timely hearing request, the Claimant's benefits were terminated for the month of December 2008. During the hearing, a supplement was authorized for this improper closure. Ultimately, under the facts presented, it is found that the Claimant established good cause for the JET noncompliance; her daughter's medical condition along with not timely receiving notification of the JET referral and noncompliance. There was no evidence that the Claimant had refused to cooperate or was otherwise noncompliant. Under these facts, the Department's actions are not upheld.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department improperly closed the Claimant's FIP case. Accordingly, it is held:

1. The Department's determination to terminate the Claimant's FIP benefits effective November 6, 2008 is REVERSED.
2. The 3-month FIP sanction for JET noncompliance is not imposed.
3. The Department shall reinstate the Claimant's FIP benefits from the closure date and supplement the Claimant for any lost benefits (if any) she was otherwise eligible and qualified to receive in accordance with department policy.

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

2009-4943/CM

Date Signed: 03/13/09

Date Mailed: 03/18/09

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.

CM/jlg

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