

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: 2009-10957
Issue No: 1038
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
March 18, 2009
Oakland County DHS

ADMINISTRATIVE LAW JUDGE: Jonathan W. Owens

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, a hearing was held on March 18, 2009. Claimant appeared and testified.

ISSUE

Did the Department of Human Services (Department) properly sanction Claimant's Family Independence Program (FIP) for failure to complete work related activities?

FINDINGS OF FACT

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

1. On September 16, 2008 the Department sent a DHS-3503 instructing the Claimant to participate in English as Second Language courses (ESL).

2. October 13, 2008 the Claimant failed to return logs as required and was sent notice of noncompliance with TRIAGE set for October 23, 2008.
3. October 23, 2008 the Claimant attended a TRIAGE meeting and stated she was unable to attend classes or work-first due to leg injury. The Claimant only had a business card from her doctor. The Claimant was given a DHS-54 A to be completed by her doctor.
4. On October 28, 2008 the Department received a Medical needs form completed by the Claimant's doctor indicating she could attend the English as Second Language courses (ESL).
5. The Department determined no good cause and re-referred the Claimant for classes.
6. On November 19, 2008 the Department sent a verification checklist noting the Claimant must comply with ESL classes or face sanction. The Claimant was given a letter from the worker in this mailing indicating why she needed to attend the ESL classes. The Department also included a DHS non-compliance letter indicating she had until December 12, 2008 to comply with ESL classes.
7. On December 16, 2008 the Claimant failed to return logs and case was placed into Closure.
8. On December 30, 2008 the Claimant's case closed.
9. On January 12, 2009 the Claimant filed a hearing request.

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).

Relevant policy section PEM 233A, p. 1:

NONCOMPLIANCE WITH EMPLOYMENT AND/OR SELF-SUFFICIENCY-RELATED ACTIVITIES

As a condition of eligibility, all WEIs and non-WEIs must work or engage in employment and/or self-sufficiency-related activities. **Noncompliance** of applicants, recipients, or member adds means doing **any** of the following **without** good cause:

Failing or refusing to:

- Appear and participate with the Jobs, Education and Training (JET) Program or other employment service provider.
- Complete a Family Automated Screening Tool (FAST), as assigned as the first step in the FSSP process.
- Develop a Family Self-Sufficiency Plan (FSSP) or a Personal Responsibility Plan and Family Contract (PRPFC).
- Comply with activities assigned to on the Family Self Sufficiency Plan (FSSP) or PRPFC.
- Appear for a scheduled appointment or meeting.
- Participate in employment and/or self-sufficiency-related activities.
- Accept a job referral.
- Complete a job application.
- Appear for a job interview (see the exception below).
- Stating orally or in writing a definite intent not to comply with program requirements.

- Threatening, physically abusing or otherwise behaving disruptively toward anyone conducting or participating in an employment and/or self-sufficiency-related activity.
- Refusing employment support services if the refusal prevents participation in an employment and/or self-sufficiency-related activity.

In the present case, the Claimant's FIP case was closed due to failure to attend ESL classes. The Claimant was originally scheduled to begin in September 2008 and failed to comply by the deadline in October 2008. The Claimant participated in a TRIAGE meeting regarding the non-compliance. The Department testified the Claimant stated she had a medical condition which prevented her from attending the ESL classes. At the time of the TRIAGE the Claimant had no documentation to support her medical condition only a business card from her doctor. The Department gave the Claimant a medical needs form to be completed by her doctor. The form specifically requested whether the Claimant's condition prevented her from attending ESL classes. The doctor completed the form indicating she was able to attend class. This same doctor indicated she could not handle prolonged standing or walking. The Claimant presented other medical documents which included a prescription note from her doctor indicating she could not work, stand, or walk for prolonged periods of time.

The Claimant testified she had attended the TRIAGE and had requested a translator to assist in the meeting. The Claimant said the Department did not provide a translator and she couldn't understand or communicate with the Department due to language barrier. The Department testified they have translators on staff in the building and no such request was made or denied. The Department testified that the Claimant fully participated in the conversation being held. This Administrative Law Judge finds the Claimant less than credible. The Claimant did bring her daughter to translate for the

hearing however it was apparent each time the Department spoke during the hearing the Claimant fully understood the comments being made and objected strongly without the daughter translating the comments.

The Claimant further stated she had told the Department she was unable to attend the ESL classes due to the long walk to the bus stop. The Department testified the Claimant had only stated that she was unable to participate due to her medical condition and made no mention of any problems with being too far from the bus stop.

The Claimant does have a serious medical condition. However her doctor indicated she could participate in ESL classes. The Department utilizing the medical information supplied by the Claimant's treating doctor properly determined the Claimant could participate in ESL classes. Therefore the Claimant's failure to complete these courses as directed resulted in the Claimant being properly found to be in non-compliance.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department of Human Services was acting in compliance with Department policy.

Accordingly, the Department's decision is UPHELD.

/s/
Jonathan W. Owens
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 5/27/09

Date Mailed: 6/1/09

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.

JWO/at

cc:

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