

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: 2009-14239

Issue No: 1038

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

April 13, 2009

Berrien County DHS

ADMINISTRATIVE LAW JUDGE: Tyra L. Wright

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 April 13, 2009. Claimant personally appeared and testified. A Michigan Work First/JET career developer appeared and testified. A family independence manager and a Department JET worker represented the Department.

ISSUE

Did the Department properly deny Claimant's application for Family Independence Program (FIP) benefits on the grounds that she failed to comply with the Jobs, Education and Training (JET) program requirements without good cause?

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 applied for FIP benefits on January 6, 2009.
- (2) Claimant was required to participate in Work First/JET.

- (3) Claimant received a Work First/JET Appointment Notice dated January 22, 2009. The notice informed her that she was scheduled to attend Work First at the [REDACTED], starting on January 26, 2009 at 8:45 am. (Exhibit 1).
- (4) Claimant attended the orientation on Monday and Tuesday, January 26 and 27, 2009. On Wednesday, January 28, 2009, the orientation was to begin at 9:00 am. Claimant and others were in the Work First office before 9:00 am waiting for orientation class to begin. The Work First/JET instructor announced at 9:00 am that the start of class would be delayed until 9:15 am. Then at 9:15 am, the instructor announced that class would start at 9:30 am.
- (5) The orientation class started at 9:30 am.
- (6) Claimant and three other students did not hear the instructor announce the start of class and therefore did not go into the classroom when nearly two dozen other students went to the classroom. Claimant reported to class at 9:40, ten minutes after the start of class.
- (7) The Department closed her FIP case on February 17, 2009 for failing to attend Work First/JET as scheduled. (Exhibit 3).
- (8) Claimant disagreed with the Department's decision to close her case on the grounds that she did not hear the instructor call her case despite her presence in the work area and waiting room.
- (9) The Department received Claimant's hearing request on February 9, 2009. (Exhibit 4).

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 (formerly 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 for FIP are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

DEPARTMENT POLICY FIP, RAP Cash

Federal and State laws require each work eligible individual (WEI) in the FIP and RAP group to participate in the Jobs, Education and Training (JET) Program or other employment-related activities unless temporarily deferred or engaged in activities that meet participation requirements. These clients must participate in employment and/or self-sufficiency related activities to increase their employability and obtain stable employment. (PEM 230A, pg. 1)

NONCOMPLIANCE PENALTIES FOR ACTIVE FIP CASES AND MEMBER ADDS

The penalty for noncompliance without good cause is FIP closure. Effective April 1, 2007, the following minimum penalties apply:

- For the first occurrence on the FIP case, close the FIP for not less than three calendar months unless the client is excused from the noncompliance as noted in [First Case Noncompliance Without Loss of Benefits](#) below.
- For the second occurrence on the FIP case, close the FIP for not less than three calendar months.
- For the third and subsequent occurrence on the FIP case, close the FIP for not less than 12 calendar months. (PEM 233A, p. 6).

The uncontested evidence presented established that Claimant entered her Work First/JET orientation class late by 10 minutes on Wednesday, January 28, 2009. As a result, she

was not allowed to complete the week. Claimant explained that she was late because she did not hear the instructor announce the start of class, which was delayed due to room availability at the Michigan Works office. Most of the other students heard the instructor announce the start of class and timely entered the classroom. Claimant contends that she was in the same work room and waiting area with the other students but failed to hear the call to enter the classroom.

Although it is reasonable that Claimant may not have heard the call to start class in a crowded noisy room, it is unreasonable to conclude that Claimant would not have seen nearly two dozen people leave for the classroom if she was present in the work room and waiting area when the call to attend class was announced. Therefore, Claimant's testimony is less credible than the testimony offered by the Work First/JET witness. Moreover, it is found that Claimant was informed of the importance of timely attending Work First/JET. Under the circumstances, it is found that the Department properly denied Claimant's FIP case on February 17, 2009 due to failure to comply with Work First/JET requirements.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department properly denied Claimant's application for FIP benefits.

Accordingly, the Department's action is AFFIRMED.

/s/

Tyra L. Wright
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 04/20/09

Date Mailed: 04/22/09

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 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.

TW/dj

cc:

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