

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.: 2009-16527
Issue No.: 1038
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
July 9, 2009
Monroe 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 hearing was held in Monroe, Michigan on July 9, 2009. The Claimant appeared and testified, along with [REDACTED]. [REDACTED] appeared on behalf of the Department.

ISSUE

Whether the Department properly denied the Claimant's FIP application based upon her failure to attend 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 is a FIP recipient.
2. The Claimant asserted she was unable to work resulting in a Medical Review Team ("MRT") assessment of the Claimant's alleged impairment(s).

3. On January 9, 2009, the MRT found the Claimant not disabled thus able to participate in the Jobs, Education, and Training (“JET”) program. (Exhibit 1)
4. On February 3, 2009, the Department sent a JET Appointment Notice to the Claimant instructing her to attend the February 17, 2009 JET orientation. (Exhibit 2)
5. The Claimant contacted the Department and stated that she had scheduled appointments for that date thus was instructed to participate with the JET program the following week.
6. The following week the Claimant contacted the JET program stating that she (and her children) had the flu thus she was unable to attend the program.
7. The Claimant left a message with the Department regarding not being able to attend the JET orientation due to illness.
8. On February 24, 2009, the Department sent the Claimant a Notice of Noncompliance for failing to attend the JET program. (Exhibit 3)
9. The Department pended the Claimant’s case for closure effective March 3, 2009. (Exhibit 4)
10. A triage was not scheduled or held during the negative action period.
11. On March 3, 2009, the Department received the Claimant’s written request for hearing. (Exhibit 5)
12. On this same date, the negative action was deleted. (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 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 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 The FSSP seeks to assist clients to achieve self-sufficiency, whenever possible, by identifying and removing barriers. PEM 228 All Work Eligible Individuals (“WEI”), unless deferred, are required to engage in employment or participate in other approved activities. PEM 230A 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

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 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 In addition, a triage must be held within the negative action period. PEM 233A A good cause determination must be made prior to the negative action effective date. PEM 233A 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 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

In the record presented, the Claimant was unable to report to her JET appointment due to illness. The Claimant contacted the JET program but her appointment was not rescheduled, nor was she instructed to do anything else. The Department sent the Claimant a Notice of Noncompliance and pended the case for closure as required by policy but did not schedule a triage within the negative action period based upon the MRT determination that the Claimant was work ready. Although the Claimant had reservation about attending the JET program, there was no evidence that she had refused to comply. There is no policy provision that provides that a triage is not required within the negative action period whenever there is a MRT determination of “work ready.” Ultimately, the Claimant was not afforded the opportunity to establish whether or not good cause existed for her failure to attend.

Under this factual scenario, the Department’s actions are not upheld. Accordingly, it is found that the Department’s determination is REVERSED.

DECISION AND ORDER

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

Accordingly, it is held:

1. The Department’s termination of the Claimant’s FIP benefits is REVERSED.
2. The 3-month sanction 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 entitled to receive in accordance with policy.

/s/

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

Date Signed: 07/14/09

Date Mailed: 07/14/09

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 60 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/jlg

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