

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.: 2009-21556
Issue No.: 1038
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
August 27, 2009
Wayne County DHS (59)

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 Detroit, Michigan on Thursday, August 27, 2009. The Claimant appeared, along with [REDACTED], and testified. [REDACTED], [REDACTED], and [REDACTED] appeared on behalf of the Department.

ISSUE

Whether the Department properly pended the Claimant's FIP benefits for closure due to non-compliance with 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. On November 14, 2008, the Claimant was referred for triage due to JET non-compliance.

(Exhibit 3)

3. On February 24, 2009, the Department sent a Notice of Non-compliance to the Claimant requesting she appear for a March 5, 2009 triage. (Exhibit 8)
4. The Claimant's FIP benefits were pended for closure.
5. The triage was held resulting in a no-good cause determination. (Exhibit 6)
6. The Claimant was given the opportunity to comply and instructed to return documentation to the Department by March 10, 2009. (Exhibits 5, 7)
7. The proposed negative action was deleted.
8. On March 10, 2009, the Claimant submitted proof of school attendance and time sheets. (Exhibits 3, 9, 10)
9. On March 11th, the Claimant missed school due to childcare issues. (Exhibit 9)
10. On April 7, 2009, the Claimant was referred for triage due to the failure to meet the required hours of participation. (Exhibit 3)
11. On April 23, 2009, the Department sent the Claimant a Verification Checklist and Notice of Non-compliance requesting she attend a second triage scheduled for April 30, 2009. (Exhibits 1, 4)
12. The triage was held resulting in a no good cause determination and the imposition of the 90-day sanction.
13. On this same date, April 30th, the Department received the Claimant's written request for hearing protesting the proposed negative action.

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"), formally 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 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”) are required to participate in the development of FSSP unless good cause exists. PEM 228 As a condition of eligibility, all WEIs must engage in employment and/or self-sufficiency related activities. PEM 233A 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 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 Failure to comply without good cause results in FIP closure. PEM 233A The first and second occurrences of non-compliance results in a 3 month FIP closure. PEM 233A 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 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. *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 non-compliant with the JET program however, because this was her first non-compliance, she was given the opportunity to comply. The Claimant timely submitted the requested verifications and participated as required. The Department testified that the Claimant was required to complete 20 hours per week in her core activity (school) and was encouraged to do an additional 16 hours in job search activities. During the time period at issue, the Claimant missed 5 hours of core activity due to childcare issues. The following week, the Claimant exceeded the required minimum hours. On March 1, 2009, childcare assistance was opened for the Claimant. The Claimant testified credibly that there was a problem with the childcare benefits which resulting in her missing school on March 11, 2009. The Department, due to the lapse of time, was not clear as to why a determination of no good cause was made. Under these facts, it is found that good cause was established for the Claimant's non-compliance therefore 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 termination of the Claimant's FIP benefits is REVERSED.
2. The 3-month FIP sanction is not imposed.

3. The Department shall supplement the Claimant for any lost benefits she was entitled to receive (if any) if otherwise eligible and qualified.

/s/

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

Date Signed: 09/03/09

Date Mailed: 09/03/09

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/jlg

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