

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: 2009-23065
Issue No: 1021
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
June 24, 2009
Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Jeanne M. VanderHeide

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 hearing. After due notice, a telephone hearing was conducted from Detroit, Michigan on June 24, 2009. The Claimant appeared and testified. Shelly Carter, FIM and Rhonda Bradford, FIS appeared on behalf of the Department.

ISSUE

Whether the Department properly issued a negative action for noncompliance as of 3/31/09 on Claimant's FIP case for a failure to comply with Work First requirements?

FINDINGS OF FACT

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

1. Claimant was a FIP recipient and was referred to Work First.
2. The Department testified that Claimant was noncompliant with Work First requirements as of 3/31/09, but could not identify the dates that Claimant did not comply.

3. Claimant testified that she met with her JET caseworker and also with her Department caseworker and requested a deferment in order to attend a phelbotomy certification course.
4. Claimant further testified that she asked her JET caseworker if any additional paperwork was needed to process the deferment.
5. Claimant testified that she never received an approval or denial on her deferment request.
6. Claimant attended JET/Work First through March of 2009 until she began her clinicals as the required clinical hours were 8:30 a.m. to 4:30 p.m.
7. Claimant testified that she has graduated from her Phelbotomy certification course and she is waiting to take the state certification test.
8. The Department testified that a notice of noncompliance was sent to Claimant on 4/17/09, but no document was produced as evidence as the Department did not have the case file at the hearing.
9. Claimant testified that she never received the notice.
10. The Department entered a negative action for noncompliance with Work First on 4/14/09.
11. On May 14, 2009, the Department received the Claimant's written 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 (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 are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

Federal and State laws require each work eligible individual in a FIP 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. PEM 230A. All work eligible individuals who fail, without good cause, to participate in employment or self-sufficiency-related activities will be penalized. PEM 233A. Failure to appear at a JET program results in noncompliance. Id.

A client can be deferred from JET requirements under certain circumstances, including enrollment in an approved education program. PEM 230B. A student enrolled at least half time in any recognized school, training program or institution of higher education meets the employment-related activities requirement. This includes persons attending school for GED or adult high school completion. The post-secondary education plan is an approved employment-related activity if, in the judgment of local office DHS staff, it enhances the client's employability. PEM 230B, p. 5. A client can request a deferral from Work First. When a request for deferral is not granted, the Department is required to document the basis of the decision for denial and advise the client of their right to discuss the deferral decision with a supervisor and file a grievance if the client disagrees with the activities assigned at JET. PEM 230A, p. 19.

In this case, the Claimant indicated that she requested a deferment in order to attend the phlebotomy certification course. As there was no testimony from JET, it is unknown if or why the schooling was denied as an approved deferral. Claimant testified that she discussed the schooling with her JET coordinator and her Department caseworker. Claimant also offered to

fill out any additional paperwork or obtain documents as needed. Claimant never received a denial of her requested deferment and also never received notice of the negative action.

Accordingly, based upon the foregoing facts and relevant law, it is found that the evidence fails to show that the Claimant was not in compliance. Therefore, the Department's negative action is REVERSED.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds the Department's determination is not upheld.

Accordingly, it is ORDERED:

1. The Department's negative action for noncompliance with JET as of 3/31/09 shall be deleted.
2. The Department shall supplement the Claimant with any lost benefits she was otherwise entitled to receive.

/s/ _____
Jeanne M. VanderHeide
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 07/01/09

Date Mailed: 07/02/09

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.

JV/dj

2009-23065/JV

cc:

