

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: 2009-23580

Issue No: 1013

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

June 25, 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 25, 2009. The Claimant appeared and testified. Ollie Perin, FIS appeared on behalf of the Department.

ISSUE

Whether the Department properly closed Claimant's FIP case on 5/16/09 for a failure to attend Work First?

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 who was referred to JET orientation.
2. Claimant began attending JET orientation.
3. At some point, Claimant stopped attending JET orientation due to lack of child care.

4. Claimant testified that her mother was initially providing child care, but then the mother stopped due to the mother's work schedule.
5. Claimant testified that her four year old son has autism and it is difficult to procure an appropriate care provider who can handle his issues.
6. Claimant testified that she discussed her child care issues with her JET caseworker who advised Claimant to discuss with her Department caseworker.
7. Claimant testified that she called and left messages for her caseworker, but never received any return phone calls.
8. Claimant submitted a report from the school social worker following a multi disciplinary evaluation report indicating that her son was autistic. The report states, in part:

[Child] was seen on February 12, 2009 by the School Social Worker and the Childhood Autism Rating Scale (CARS) was utilized. The CARS is a 15 item rating scale used to identify children with Autism. On the CARS, [Child] scored a total of 34, which places him in the Mildly-Moderately Autistic range.

[Child] sometimes engages in melt-down episodes in which he screams, yells and cries with at times no precipitating factor. Communication and conversational skills are limited.

Exhibit A, p. 4.

9. The Department refused to accept the social worker's report (Exhibit A) as verification of the child's medical condition and/or need for specialized child care and requested that Claimant obtain a DHS 49.
10. Claimant testified that she had difficulty getting an appointment for her son and that she called and left messages for her caseworker regarding same. Claimant also indicated that she was not allowed to explain this at the triage .

11. The Department produced no notice of noncompliance, no notice of scheduled triage date or no notice of termination of benefits.
12. The Department produced no testimony from JET regarding the dates that Claimant attended or did not attend JET.
13. Claimant attended a triage.
14. Claimant's FIP case was closed on 5/16/09.
15. On May 27, 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.

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 at 4. Good cause includes being physically or mentally unfit for the job or activity as shown by medical evidence or other reliable information or having an immediate family member with an illness or injury that requires in-home care by the client. Id. It also includes when child care is needed for a CDC-eligible child, but none is appropriate, suitable, affordable or within reasonable distance of the client's home or work site. The care must be appropriate to the child's age, disabilities and other conditions. PEM 233A, p. 4. The penalty for noncompliance without good cause is FIP closure. Id. at 6. If good cause is established the negative action is to be deleted. Id. at 12.

In this case, the Claimant provided credible testimony that she notified JET that she had an issue with child care and that she attempted to notify the Department of the child care issue. Claimant provided verification that her son has a medical problem that causes difficulty in obtaining a sitter. Claimant testified that her son does not respond well to new people and will sometimes melt down into a full blown tantrum if left in an uncomfortable situation.

Claimant provided verification of her son's issues by providing a copy of the multidisciplinary evaluation report performed by a social worker at the [REDACTED]. The social worker did an evaluation for autism and found that the child was in the mildly to moderately autistic range. These findings are clearly stated in the report. Furthermore, the regulations regarding the good cause child care exception do not require that the Claimant have a DHS 49 filled out before good cause is granted.

Accordingly, the Administrative Law Judge finds that Claimant has provided good cause for her lack of participation in JET due to her need for specialized child care for her son. The

Department sanctioned the Claimant and closed her case in error. Based upon the foregoing facts and relevant law, 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 the Department's determination is not upheld.

Accordingly, it is ORDERED:

1. The Department's April 2009 negative action for noncompliance shall be deleted.
2. The Department shall reopen Claimant's FIP case from the date of closure, 5/21/08 and 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: 07/02/09

Date Mailed: 07/08/09

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

cc:

