

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.: 2009-26076
Issue No.: 1021
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
July 20, 2009
Wayne County DHS (57)

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 July 20, 2009. The Claimant appeared and testified. [REDACTED], FIM and [REDACTED], FIS appeared on behalf of the Department.

ISSUE

Whether the Department properly issued a negative action effective 6/4/09 on Claimant's FIP case 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 is an active FIP recipient and was referred to Work First.
2. Claimant testified that she was putting in 20 hours per week because her son was under six years old. Claimant further testified that no one informed her that she needed to be at Work First more hours after her turned six.

3. Claimant was informed by the JET worker that her hours needed to increase to 30 hours per week on 3/14/09. (Exhibit 1, p. 4).
4. Claimant testified that she missed three days in April of 2009. On 4/30/09 Claimant attended a doctor appointment for her son for which she turned in a doctor excuse. On two other occasions, Claimant was suffering from asthma and stayed home to use her nebulizer and recover.
5. The JET coordinator case notes indicate that on 4/15/09, “triage not submitted, she has missed only 2 days so far for the month of April and she was given her final warning that if she misses more than her 2 unexcused absences or falls under her hours again, she will be triaged.” Then on 4/30/09, the case notes indicated “TRIAGE. Ms Tennyson has had excessive absences and has not met her hours of required participation after repeated warnings.”
6. A 5/4/09 JET coordinator case note indicates that Claimant submitted a note for absence on 4/30/09 for the eye doctor appointment.
7. At the hearing, The Department was unable to verify which days Claimant was noncompliant or missed. There was no representative from JET available at the hearing to testify.
8. A triage was scheduled for 6/4/09. No good cause was found and case was closed for three months for a second sanction. (Exhibit 1, p. 1.).
9. On June 11, 2009, the Department received the Claimant’s written hearing request.
10. Claimant is still receiving FIP benefits pending the subject hearing.

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. Id. It also includes where the client has a debilitating illness or injury. 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 Department was unable to testify clearly as to which days Claimant missed or on what days she did not complete her hours. There was no testimony presented as to

what hours Claimant completed or did not complete. The Claimant provided credible testimony that she was absent on 4/30/09 in order to take her son to an eye doctor's appointment. Claimant testified that she turned in a doctor's note and this is confirmed by the JET coordinator case notes. Claimant also testified that she did not know that she needed to do 30 hours rather than 20 at Work First until March of 2009. This was also confirmed by the JET coordinator case notes. Claimant testified credibly that on two other occasions in April, 2009, she was unable to attend Work First due to asthma attacks which she treated at home with her nebulizer. Even if these are considered unexcused absences, according to the JET case notes Claimant was not past her limit.

The undersigned finds that Claimant has shown good cause for missing Work First on 4/30/09 as she took her son to the eye doctor. The undersigned further finds that Claimant did not miss more than her limit of unexcused absences after 3/14/09. Also, the undersigned finds that based on evidence presented, Claimant was compliant with her Work First hours.

Based upon the foregoing facts and relevant law, it is found that the Claimant was compliant with Work First and 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 negative action for noncompliance, effective 6/4/09, 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: 08/20/09

Date Mailed: 08/25/09

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.

JV/jlg

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