

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: 2009-26716
Issue No: 1038
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
July 20, 2009
Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Tyra L. Wright

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9; and MCL 400.37 upon Claimant's request for a hearing. After due notice, a hearing was held on July 20, 2009. Claimant personally appeared and testified. The Department was represented by a JET case manager.

ISSUE

Did the Department properly determine that Claimant's Family Independence Program (FIP) case should be closed on the grounds that she failed to comply with the Jobs, Education and Training (JET) program requirements without good cause?

FINDINGS OF FACT

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

- (1) Claimant is a FIP recipient for a group size of five. She last received \$694 in monthly FIP benefits in May 2009.

- (2) On April 23, 2009, the Department sent Claimant a noncompliance notice, also referred to as a DHS 2444 form. (Exhibit 1). The notice stated that Claimant had poor participation. The Department asserted that Claimant did not complete her week-long orientation that began on Monday, April 6, 2009. The notice also stated that a meeting had been scheduled for April 28, 2009 at 10:00 to allow her to “discuss your reasons for not meeting employment and/or self-sufficiency related activity requirements.”
- (3) Claimant did not attend the meeting on [REDACTED] because she had to appear in court on [REDACTED] related to an alleged violation of her probation. (Exhibit 7). She asserted that she was in court until nearly 5:00 pm that day.
- (4) Claimant called her Department worker to report that she was unable to attend the meeting scheduled for [REDACTED] due to conflict with her court appearance.
- (5) In addition, Claimant stated that she attended her JET orientation from Monday, April 6 through Thursday, April 9, 2009 but did not attend on Friday because a Protective Services worker arrived at her home for a surprise visit.
- (6) The Department found at the meeting that Claimant had not established good cause for failing to comply with JET requirements. Consequently, Claimant’s case was placed on a three-month sanction, effective June 1, 2008, for failing to comply with JET.
- (7) Claimant disagreed with the Department on the grounds that she had to meet with the protective services worker who showed up at her residence on the last day of Claimant’s JET orientation and that she was required to attend the court appointment on [REDACTED] to avoid being arrested and placed in jail, which would have negative impacted her four children.

- (8) The Department timely received Claimant's hearing request on June 10, 2009.
(Exhibit 6).

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 for FIP are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

DEPARTMENT POLICY

FIP, RAP Cash

Federal and State laws require each work eligible individual (WEI) in the FIP and RAP 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. These clients must participate in employment and/or self-sufficiency related activities to increase their employability and obtain stable employment. (PEM 230A, pg. 1)

NONCOMPLIANCE PENALTIES FOR ACTIVE FIP CASES AND MEMBER ADDS

The penalty for noncompliance without good cause is FIP closure. Effective April 1, 2007, the following minimum penalties apply:

- For the first occurrence on the FIP case, close the FIP for not less than three calendar months unless the client is excused from the noncompliance as noted in [First Case Noncompliance Without Loss of Benefits](#) below.
- For the second occurrence on the FIP case, close the FIP for not less than three calendar months.
- For the third and subsequent occurrence on the FIP case, close the FIP for not less than 12 calendar months. (BEM 233A).

**CLIENT OR AUTHORIZED REPRESENTATIVE
RESPONSIBILITIES**

Responsibility to Cooperate All Programs

Clients must cooperate with the local office in determining initial and ongoing eligibility. This includes completion of necessary forms. (BAM 105)

Refusal to Cooperate Penalties

All Programs

Clients who are able but refuse to provide necessary information or take a required action are subject to penalties. (BAM 105)

In this case, Claimant's testimony was found to be forthright and credible. Therefore, it is found that she had good cause for not attending the last day of her JET orientation due to the fact that a Protective Services worker arrived at her home for a visit. In addition, Claimant established that she had good cause for failing to attend the meeting scheduled for [REDACTED] due to a conflict a court appearance. Consequently, Claimant did not fail to cooperate with the Department. Under these circumstances, it is found that the Department should not have closed Claimants' FIP case for failing to comply with JET.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department improperly closed Claimant's FIP case as a sanction for noncompliance with Work First/JET. Accordingly, the Department's action is REVERSED. The Department is ORDERED to reopen Claimant's case and reimburse her for any benefits she would have received had the case not been closed.

/s/ _____
Tyra L. Wright
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 08/20/09

Date Mailed: 08/24/09

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.

TW/dj

cc: M. Foushee
Wayne County DHS (Dist #43) / DHS-1843
M. J. Mathisen
G. Fournier
T. Wright
Administrative Hearings (2)