

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. 2009-27313
Issue No. 1038
Case No. [REDACTED]
Load No. [REDACTED]
Hearing Date:
July 29, 2009
Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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 telephone hearing was held on July 29, 2009 and claimant was not represented.

ISSUE

Whether the Department is properly proposing to close claimant's Family Independence Program ("FIP") benefits case for non-compliance with the Work First/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. Claimant was an ongoing recipient of FIP benefits in a household of 3 persons.
2. On May 26, 2009 the Department issued notice to claimant to attend a Work First / JET appointment on June 8, 2009 at 1:00 pm.

3. Claimant testified she did attempt to attend the appointment but was turned away and told to call her department worker to request a new appointment date.
4. Claimant called her worker on June 8, 2009 and her request for a new appointment date was denied.
5. The department testified that they did not schedule a triage meeting and the case was put into negative action on June 10, 2009.
6. Claimant requested a hearing contesting the proposed closure on June 10, 2009.
7. Claimant's FIP benefits have remained open pending the 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 (DHS or Department) administers the FIP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3101-3131. The FIP program replaced the Aid to Dependant 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).

The Family Independence Program (FIP) provides temporary cash assistance to support a family's movement to self-sufficiency. The recipients of FIP engage in employment and self-sufficiency-related activities so they can become self-supporting. Federal and State laws require each work eligible individual (WEI) in the 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. These clients must participate in employment and/or self-sufficiency related activities to increase their employability and obtain stable employment. PEM 230A.

JET is a program administered by the Michigan Department of Labor and Economic Growth (DLEG) through the Michigan Works Agencies (MWAs). The JET program serves employers and job seekers for employers to have skilled workers and job seekers to obtain jobs that provide economic self-sufficiency. PEM 230 A. A mandatory participant in the JET program who fails without good cause to participate in employment activity must be penalized. PEM 233(a). The penalty for the first occurrence of noncompliance in the JET program is a closure for a minimum of three calendar months under the FIP program. PEM 233(a). Good cause is a valid reason for noncompliance with employment related activities. A claim of good cause must be verified and documented for applicants, members, and recipients. PEM Manual Item 230(a), PEM Manual Item 230(b); 7 CFR Parts 272 and 273.

In the present case, claimant was an ongoing recipient of FIP benefits who was referred to Work First/JET after a decrease in earnings. Claimant was given an appointment date of June 8, 2009. Claimant testified that she was a few minutes late but was in line to be admitted, Claimant further testified that she could see that the room was filling up and that starting about two people ahead of her in the line they were turned away. Claimant testified that everyone was told to contact their department worker to get a new appointment date. Claimant called her worker from the parking lot to request a new appointment date.

The department worker testified that he did receive claimant's call on June 8, 2009 but denied the request for a new appointment date and placed the case in negative action on June 10, 2009. Department testified that a triage appointment was not scheduled because claimant never re-entered the Work First/Jet program. Department's position is that a triage would not have been possible as there was not a third party (Work First) to participate in a triage.

Department's position is not supported by policy. There are no three party requirements in policy to hold a triage meeting. To the contrary, PEM 233A pg. 9 specifies "clients not

participating with JET must be scheduled for a triage meeting between the FIS and the client.”

The only exception is for clients with a pending application. PEM 233A. The department was required to schedule a triage to be held within the negative action period as this was an ongoing FIP case, not a pending application.

Claimant has provided sufficient proof of good cause for failing to participate in Work First/JET appointment on June 8, 2009. Further, the department failed to schedule the required triage meeting. Therefore no penalty will be imposed on claimants FIP case and the department shall refer the claimant back to Work First/JET with a new appointment date.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the claimant has established good cause for non-participation in the June 8, 2009 Work First/JET appointment and that the Department did not follow policy for processing the proposed closure of claimant’s FIP benefit case.

Accordingly, the Department’s eligibility determination is REVERSED. Therefore it is ORDERED that the claimant’s FIP case remain open, without penalty. It is further ORDERED that the department refer claimant back to Work First/JET with a new appointment date.

/s/ _____
Colleen Lack
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 08/28/09

Date Mailed: 08/31/09

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.

CL/dj

cc:

