

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.: 2009-27398
Issue No.: 1038
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
August 26, 2009
Wayne County DHS (43)

ADMINISTRATIVE LAW JUDGE: Colleen M. Mamelka

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 a hearing. After due notice, a telephone hearing was conducted from Highland Park, Michigan on August 26, 2009. The Claimant appeared, along with [REDACTED], and testified. [REDACTED] and [REDACTED] appeared on behalf of the Department.

ISSUE

Whether the Department properly terminated the Claimant's FIP benefits based the Claimant's failure to comply with the JET requirements?

FINDINGS OF FACT

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

1. The Claimant was a FIP recipient.
2. The Claimant was required to participate in the Jobs, Education, and Training ("JET") program.

3. In January of 2009, the Claimant was non-compliant with the JET program and was asked to submit student verification. (Exhibit 18)
4. On or about February 17, 2009, the Claimant submitted the student verifications to the JET program. (Exhibit 18, 19, 20)
5. As part of the review process, the Department sent a Verification Checklist to the Claimant, instructing her to attend a March 5th interview for recertification, on February 11, 2009. (Exhibit 1)
6. On March 5th, the Claimant, along with her mother, attended the review where the Claimant informed the Department that she was attending school.
7. As a result, the Department provided a second Verification Checklist requesting, in part, verification of school attendance be submitted by March 16, 2009. (Exhibits 2, 3)
8. The Claimant denied receipt of the second Verification Checklist during the review.
9. On March 24, 2009, the Department extended the due date for the verification of school attendance until April 6, 2009. (Exhibits 4, 5)
10. On May 5, 2009, the Claimant was referred to triage for failing to fully participate in the Work First program. (Exhibits 9, 17)
11. On May 22, 2009, the Department sent a Notice of Non-Compliance to the Claimant instructing the Claimant to attend the June 1, 2009 triage. (Exhibit 7)
12. The Claimant's case was pended for closure effective June 3, 2009. (Exhibit 6)
13. The Department notified the Claimant of the negative action. (Exhibits 10, 11)
14. The Claimant received the Non-Compliance Notice but failed to attend the scheduled triage resulting in a No Good Cause determination. (Exhibit 8)
15. The Claimant's mother appeared for the triage.

16. The Claimant did not communicate with the Department during the period from May 22, 2009 through June 3, 2009.

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 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”).

DHS requires clients to participate in employment and self-sufficiency related activities and to accept employment when offered. PEM 233A The Family Self-Sufficiency Plan (“FSSP”) was created to allow DHS and other DHS client service providers to share information about mutual clients for optimal case management. PEM 228 The FSSP seeks to assist clients to achieve self-sufficiency, whenever possible, by identifying and removing barriers. PEM 228 All Work Eligible Individuals (“WEI”) are required to participate in the development of FSSP unless good cause exists. PEM 228 As a condition of eligibility, all WEIs must engage in employment and/or self-sufficiency related activities. PEM 233A The WEI is considered non-compliant for failing or refusing to appear and participate with the Jobs, Education, and Training Program (“JET”) or other employment service provider. PEM 233A 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 Failure to comply

without good cause results in FIP closure. PEM 233A The first and second occurrences of non-compliance results in a 3 month FIP closure. PEM 233A

JET participants will not be terminated from a JET program without first scheduling a triage meeting with the client to jointly discuss noncompliance and good cause. PEM 233A In processing a FIP closure, the Department is required to send the client a notice of non-compliance, DHS-2444, which must include the date(s) of the non-compliance; the reason the client was determined to be non-compliant; and the penalty duration. PEM 233A In addition, a triage must be held within the negative action period. *Id.* A good cause determination is made during the hearing and prior to the negative action effective date. *Id.*

In the record presented, the Claimant was required to participate in the JET program. In February of 2009, the Claimant submitted to the JET program, her school verification. The Department testified credibly (and as supported by the evidence) that on at least two occasions after the school verification was submitted to the JET program, the school verification was requested by the Department which was not provided. Subsequently, the Claimant was referred to triage as a result of JET non-compliance. The Claimant received notice of the scheduled triage but failed to call and/or attend resulting in a “no good cause” determination. The Claimant’s mother appeared for the triage with a request for hearing however the mother was not allowed to attend the triage on behalf of her daughter, nor were there any written authorizations from the Claimant granting her mother the authority to act on her behalf. The Request for Hearing was not submitted on that date but was later sent to Lansing. Having no communication with the Claimant, and having established proper policy was followed when scheduling the triage and pending the case for closure, the Claimant’s case terminated effective June 3rd with the imposition of the 3-month sanction. Under these facts, the Department established it acted in

accordance with department policy when it terminated the Claimant's FIP benefits. Accordingly, the Department's negative action is AFFIRMED.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department acted in accordance with department policy when it closed the Claimant's benefit case.

Accordingly, it is ORDERED:

1. The Department's determination to terminate the Claimant's FIP benefits is AFFIRMED.
2. A 3-month FIP sanction is imposed from the date of closure based upon the JET non-compliance.

/s/
Colleen M. Mamelka
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 08/31/09

Date Mailed: 09/01/09

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.

CMM/jlg

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