

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. 2009-31971
Issue No. 1038
Case No. [REDACTED]
Load No. [REDACTED]
Hearing Date:
September 16, 2009
Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Colleen Lack

HEARING DECISION

This matter is before the undersigned Administrative Law Judge upon pursuant to MCL 400.9; MCL 400.37 upon claimant's request for a hearing. After due notice, a telephone hearing was held on September 16, 2009 and claimant was not represented. Paula Henderson, FIS, and Lillian Dolkey FIM, appeared on behalf of the department.

ISSUE

Is the Department's proposed closure of claimant's Family Independence Program (FIP) benefits case for non-compliance with employment related activities proper?

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 who was participating in the JET program.

2. On July 14, 2009 the department issued a Notice of Noncompliance indicating that claimant had poor attendance/participation in Work First/JET activities and a triage meeting was scheduled to discuss the case on July 23, 2009. (Department Exhibit 1 pg. 3)
3. Claimant attended the July 23, 2009 meeting and a determination of non-compliance without good cause was made. (Department Exhibit 1 pg. 5)
4. The department proposed a closure of the FIP benefits for failure to participate in the Work First/JET program effective July 28, 2009.
5. Claimant filed a hearing request to contest the closure on July 21, 2009.
6. 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 Manual Item 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 Manual Item 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 participating in the JET program. The department representative testified that claimant was required to participate in JET for 20 hours a week. The alleged noncompliance was that claimant had poor attendance and would not participate in Work First/JET activity. (Department Exhibit 1 pg. 3) However, no evidence was presenting documenting how many hours claimant was short, what dates claimant failed to attend or what activities she failed to participate in. No representative from the Work First/JET program was present at the hearing.

Claimant testified she was allowed 2 excused absences per month and her only unexcused absence occurred when the regular child care provider, claimant's grandmother, was unavailable and did not advise claimant to make other arrangements for child care. The

grandmother went with claimant's mother on [REDACTED] for treatment for breast cancer and did not make arrangements for anyone else to watch claimant's children. Both claimant's mother and grandmother submitted letters supporting claimant's testimony. (Claimants Exhibits 1 pgs. 1-3) Claimant further testified that she did submit doctor/hospital documentation for the excused absences. The Work First/JET May 12, 2009 case note show claimant brought in documentation of an ER visit, notified the work first/JET program of a follow up appointment and indicated she would bring verification after completion of the doctor visit. (Department Exhibit 2 pg. 6) The [REDACTED] case note documents that a doctor's excuse was provided for an appointment that day. (Department Exhibit 2 pg. 5)

Based upon the foregoing facts and relevant law, it is found that the department did not present sufficient evidence of what days/hours claimant missed or activities she failed to participate in for a non-compliance determination. Additionally, the evidence presented showed claimant was submitting documentation from doctors/hospital for medical treatment for her children and that she had good cause for not attending on May 18, 2009 when her child care provider was not available.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the department erred in closing the FIP benefits as no evidence was presented explaining what hours claimant missed, what days she failed to attend or what activities she failed to participate in. Additionally, claimant had good cause for not attending the Work First/JET on May 18, 2009 when her regular child care provider was unavailable.

Accordingly, the Department's FIP eligibility determination is REVERSED. Therefore it is ORDERED that the claimant's FIP benefits remain open, without penalty, in accordance with this decision.

Colleen Lack

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

Date Signed: 10/07/09

Date Mailed: 10/08/09

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.

CL/dj

cc:

A large black rectangular redaction box covering several lines of text in the cc field.