

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.: 2009-32776
Issue No.: 1038
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
September 23, 2009
Oakland County DHS (4)

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 hearing was conducted from Pontiac, Michigan on September 23, 2009. The Claimant appeared and testified. The Claimant was represented by [REDACTED] of [REDACTED]. [REDACTED]. [REDACTED] appeared on behalf of the Department.

ISSUE

Whether the Department properly terminated the Claimant's FIP benefits based upon the Claimant's non-compliance with the 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. The Claimant was a FIP recipient.

2. On July 23, 2009, the Claimant attended a JET triage resulting in a First Non-Compliance Letter requiring the Claimant to submit a Medical Needs Form (DHS 54A) as well as complete a total of 30 hours. (Exhibit 1)
3. As a result of the First Non-Compliance letter, the negative action was deleted.
4. The Claimant was instructed to begin the JET activities on July 27, 2009 at 9:00am. (Exhibit 1)
5. On July 27, 2009, the Claimant presented to the JET program but was approximately 3 hours late. (Exhibit 2)
6. The Claimant was informed that her FIP benefits were scheduled for closure but that she could remain to discuss her case when her worker returned from lunch.
7. The Claimant did not stay and/or discuss her case.
8. On this date, the Claimant's FIP benefits were pended for closure effective August 10, 2009.
9. The Claimant received notification of the negative action and filed a written request for hearing on August 3, 2009. (Exhibit 3)

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, formally 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").

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. PEM 233A A good cause determination must be made prior to the negative action effective date. PEM 233A When good cause is not established for the non-compliance, the DHS-754, First Noncompliance Letter, is discussed regarding the imposition of sanctions if the client continues non-compliance. *Id.* The client is offered an opportunity to comply with the FSSP by the due date on the DHS-754 and within the

negative action period. *Id.* Although a client agrees to comply, the instance of non-compliance is excused but remains on the client's record even if the client complies. *Id.* The negative action date is deleted and a new negative action is entered to afford the client an opportunity to comply. PEM 233A If the client complies, the second negative action period is deleted. *Id.* The opportunity to comply is offered one time for each case for the first non-compliant member when there is no good cause. *Id.*

In this case, a triage was held resulting in a no good cause determination. The Claimant was offered an opportunity to come into compliance by participating for 30 hours in work-related activities and by submitting a Medical Needs form on July 27, 2009 at 9:00a.m. At 9:00a.m., the Claimant left a message with her worker that she would be late due to transportation issues. It was unclear during the hearing whether or not the message was received. The Claimant made alternative arrangements with a family member to get to the JET program however she was approximately 3 hours late. Upon arrival, the Claimant was informed that the negative action was already imposed due to her late arrival. Ultimately, under these facts, it is found that the Department established it followed department policy when it pended the Claimant's case for closure for failing to attend the JET program as previously agreed. That being stated, it is found that the Claimant established good cause for the non-compliance (transportation issues) and had made a reasonable attempt to contact the Department by leaving a message regarding her barrier. Under these facts, the Department's actions are not upheld. Accordingly, the negative action notice is reversed.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department's actions are not upheld.

Accordingly, it is ORDERED:

1. The Department's determination to terminate the Claimant's FIP benefits is REVERSED.
2. The 3-month FIP sanction for JET non-compliance is not imposed.
3. The Department shall reinstate the Claimant's FIP benefits back to the date of closure and supplement the Claimant for any lost benefits (if any) she was otherwise eligible and qualified to receive in accordance with Department policy.

Colleen M. Mamelka

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

Date Signed: 09/29/09

Date Mailed: 09/29/09

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

cc:

