

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.: 2009-32894

Issue No.: 1038

Case No.: [REDACTED]

Load No.: [REDACTED]

Hearing Date:

September 17, 2009

Wayne County DHS (57)

ADMINISTRATIVE LAW JUDGE: Michael J. Bennane

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9; MSA 16.409 and MCL 400.37; MSA 16.437 upon the Claimant's request for a hearing. After due notice, a telephone hearing was held on September 17, 2009. The Claimant personally appeared and testified.

ISSUE

Did the Department properly close the Claimant's Family Independence Program (FIP)?

FINDINGS OF FACT

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

1. The claimant was a FIP recipient and required to participate in job related activities.
2. On June 11, 2009, the department scheduled a triage due to the claimant's JET noncompliance the claimant did not attend.
3. On June 16, 2009, the department closed the claimant's FIP.
4. On August 11, 2009, the claimant filed a request for a 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 (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 are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

In the instant case, the Claimant failed to attend JET appointments and perform work related assignments.

**NONCOMPLIANCE WITH EMPLOYMENT AND/OR SELF-SUFFICIENCY-RELATED ACTIVITIES**

As a condition of eligibility, all WEIs and non-WEIs must work or engage in employment and/or self-sufficiency-related activities. **Noncompliance** of applicants, recipients, or member adds means doing **any** of the following **without** good cause:

Failing or refusing to:

Appear and participate with the Jobs, Education and Training (JET) Program or other employment service provider.

Complete a Family Automated Screening Tool (FAST), as assigned as the first step in the FSSP process.

Develop a Family Self-Sufficiency Plan (FSSP) or a Personal Responsibility Plan and Family Contract (PRPFC).

Comply with activities assigned to on the Family Self Sufficiency Plan (FSSP) or PRPFC.

Appear for a scheduled appointment or meeting.

Participate in employment and/or self-sufficiency-related activities.

Accept a job referral.

Complete a job application.

Appear for a job interview (see the exception below).

Stating orally or in writing a definite intent not to comply with program requirements. (PEM 233A, p. 1-2).

In the instant case, the Claimant did not report to JET as required.

At the hearing, claimant provided documentation that she was a care giver for a foster child, (her niece), who required 24 hour care and supervision. Testimony from a department social worker verified that claim.

██████████ Department of Human Services social worker also testified that she left several messages with the department as to the necessity of the claimant's care for her niece.

The record shows that the department knew or should have known of the claimant's barrier to performing JET activities.

### **GOOD CAUSE FOR NONCOMPLIANCE**

**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. A claim of good cause must be verified and documented for member adds and recipients. Document the good cause determination on the DHS-71, Good Cause Determination and the FSSP under the Participation and Compliance tab.

See [School Attendance](#) PEM 201 for good cause when minor parents do not attend school.

If it is determined during triage the client has good cause, and good cause issues have been resolved, send the client back to JET. Do not do a new JET referral.

Good cause includes the following:

#### **Employed 40 Hours**

The person is working at least 40 hours per week on average and earning at least state minimum wage.

**Client Unfit**

The client is physically or mentally unfit for the job or activity, as shown by medical evidence or other reliable information. This includes any disability-related limitations that preclude participation in a work and/or self-sufficiency-related activity. The disability-related needs or limitations may not have been identified or assessed prior to the noncompliance.

**Illness or Injury**

The client has a debilitating illness or injury, or an immediate family member's illness or injury requires in-home care by the client.

**Reasonable Accommodation**

The DHS, employment services provider, contractor, agency, or employer failed to make reasonable accommodations for the client's disability or the client's needs related to the disability.

**No Child Care**

The client requested child day care services (CDC) from DHS, the MWA, or other employment services provider prior to case closure for noncompliance and CDC is needed for a CDC-eligible child, but none is appropriate, suitable, affordable and within reasonable distance of the client's home or work site.

**Appropriate.** The care is appropriate to the child's age, disabilities and other conditions.

**Reasonable distance.** The total commuting time to and from work and child care facilities does not exceed three hours per day.

**Suitable provider.** The provider meets applicable state and local standards. Also, providers (e.g., relatives) who are NOT registered/licensed by the DHS Office of Child and Adult Services must meet DHS enrollment requirements for day care aides or relative care providers. See PEM 704.

**Affordable.** The child care is provided at the rate of payment or reimbursement offered by DHS.

**No Transportation**

The client requested transportation services from DHS, the MWA, or other employment services provider prior to case closure and

reasonably priced transportation is not available to the client.  
(PEM 233A, pp.4-5)

This ALJ finds that the department inappropriately closed the claimant's FIP and that the claimant had good cause for her lack of attendance.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, REVERSES AND ORDERS the Department to reinstate the claimant's FIP and replace any lost benefits.



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Michael J. Bennane  
Administrative Law Judge  
for Ismael Ahmed, Director  
Department of Human Services

Date Signed: 10/28/09

Date Mailed: 10/28/09

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.

MJB/jlg

cc:

