

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: 2009-33490
Issue No: 1035; 3008
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
November 24, 2009
Berrien County DHS

ADMINISTRATIVE LAW JUDGE: Jay W. Sexton

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, an EXPEDITED in-person hearing was held on November 24, 2009, in Benton Harbor. Claimant personally appeared and testified under oath.

The department was represented by Janet Martin (FIM), Gabrielle Banqua (FIS) and Shannon Myers (JET worker).

ISSUE

Did the department correctly decide to sanction claimant's FIP and FAP cases (August 24, 2009) due to claimant's failure to complete his Work First assignment on July 13, 15, and 16?

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 and her minor son are FIP and FAP recipients (household size equals two).

(2) All adult able-bodied FIP/FAP recipients are required to participate in Work First as a condition of ongoing FIP/FAP eligibility, if they are not otherwise gainfully employed.

(3) In order for self-employed persons to be excused from Work First, the self-employed person must have self-employment income equivalent to 40-hour per week job paying \$7.50 per hour.

(4) In July 2009, claimant was gainfully employed as a child care provider. She worked 50 hours per week and her hourly wage was \$3 an hour. Total weekly wages were \$150.

(5) This is claimant's second JET noncompliance sanction. Claimant served a three-month Work First sanction in 2008.

(6) In June 2009, the DHS/JET worker assigned claimant to attend Work First for 40 hours a week. Claimant was properly notified.

(7) On July 13, 15, and 16, claimant failed to attend her Work First assignment.

(8) On August 12, the JET caseworker placed claimant's FIP/FAP case into negative action.

(9) The Notice of Negative Action (closure) was mailed to claimant.

(10) The negative action notice informed claimant that the DHS JET worker that scheduled a Triage meeting does good cause for August 12, 2009. The purpose of the Triage meeting was to determine whether or not claimant had good cause for her noncompliance with Work First on July 13, 15, and 16.

(11) On August 12, 2009, claimant attended the Triage meeting with the DHS/JET worker. Claimant told the DHS/JET worker that she was unable to attend her Work First sessions on July 13, 15, and 16 because she was working as a child day care provider, 50 hours a week at \$3 per hour. Also, claimant reported that a MWA JET worker “excused her” from her Work First assignment because she was self-employed as a day care provider.

(12) Claimant submitted at the Triage meeting a statement showing the number of hours she worked as a self-employed day care provider.

(13) The DHS/JET worker did not accept claimant’s verification of employment because claimant’s employment did not pass the Work First Self-Sufficiency test. Claimants must work 40 hours at \$7.50 for a total of \$300 a week in order to pass the self-sufficiency test.

(14) On August 24, 2009, the DHS/JET worker placed claimant’s FIP/FAP cases into negative action due to claimant’s second noncompliance with Work First.

(15) On August 17, 2009, claimant timely requested a hearing. The proposed FIP/FAP negative action was deleted pending the outcome of the hearing.

(16) Claimant thinks she should be excused from her July 13, 15, and 16 Work First assignments because:

- (a) She was working as a self-employed day care provider on those dates; and
- (b) An MWA JET worker excused ‘claimant from her Work First assignment based on her self-employment as a day care provider.’

(17) The MWA JET worker did not officially excuse claimant from her July 13, 15, and 16 Work First assignments.

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 Dependent Children (ADC) program effective October 1, 1996. Department policies are found in the Benefit Administrative Manual (BAM), the Benefit Eligibility Manual (BEM) and the Benefit Reference Manual (BRM).

The Food Assistance Program (FAP) (formerly known as the Food Stamp (FS) program) is established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations (CFR). The Department of Human Services (DHS or department) administers the FAP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3001-3015. Department policies are found in the Benefit Administrative Manual (BAM), the Benefit Eligibility Manual (BEM) and the Benefit Reference Manual (BRM).

The following departmental policies outline the applicable employment requirements for FIP/FAP recipients assigned to Work First.

DHS requires clients to participate in employment-related activities and to accept employment when offered. Our focus is to assist clients in removing barriers so they can participate in activities that lead to self-sufficiency. However, there are consequences for a client who refuses to participate in employment-related activities or refuses to accept employment, without good cause. BEM 233A.

The record shows that the DHS/JET worker explain to claimant that the Berrien County JET Policy requires FIP/FAP recipients to participate in the [REDACTED] as a condition of ongoing eligibility for benefits. BEM 229, 230A, 230B, 233A, and 233B. See also BEM 220.

The preponderance of the evidence in the record shows that the DHS/JET worker properly assign claimant to attend Work First in July. Claimant was required to attend Work First sessions on July 13, 15, and 16.

The DHS/JET worker scheduled a Triage meeting to enable claimant to provide her good cause reasons for the unexcused absences in July. Claimant asked the DHS/JET worker to excuse her because (a) she was working as a child care provider 50 hours a week; and (b) she was working as a child care provider 50 hours a week; and (c) an MWA JET worker excused her from Work First based on her self-employment as a child care provider. During the August 12, 2009 Triage meeting, the claimant explained her reasons for having the Work First sanction removed.

However, the JET caseworker declined to find good cause because claimant's work as a day care provider produced weekly wages of \$150 and the Work First Self-Sufficiency test is weekly wages of \$300.

Based on claimant's second Work First noncompliance, and claimant's failure to establish a legitimate reason for her absences on July 13, 15, and 16, the DHS/JET caseworker decided to sanction claimant's FIP/FAP cases due to claimant's July 2009 absences, without good cause.

After a careful review of the record, the Administrative Law Judge concludes that there is no evidence of arbitrary or capricious actions by the DHS/JET worker in sanctioning claimant's FIP/FAP cases. The record shows that the caseworker made reasonable attempts to accommodate claimant so that she could complete her Work First requirement. Also, this is claimant's second Work First noncompliance.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department's Work First sanctions (second noncompliance) are correct.

Accordingly, the department's action, hereby, **AFFIRMED**.

SO ORDERED.

/s/ _____
Jay W. Sexton
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: March 12, 2010

Date Mailed: March 12, 2010

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.

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cc:

