

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: 2009-34013
Issue No: 1013
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
October 8, 2009
Oakland County DHS

ADMINISTRATIVE LAW JUDGE: Jeanne M. VanderHeide

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 hearing. After due notice, a telephone hearing was conducted from Detroit, Michigan on October 8, 2009. The Claimant appeared and testified. Willard Anzaldi, JET Case Manager, and Megan McLosky, representative from Ferndale Career Center, appeared on behalf of the Department.

ISSUE

Whether the Department properly issued a negative action and terminated Claimant's FIP benefits effective 3/11/09 on Claimant's FIP case for noncompliance with Work First?

FINDINGS OF FACT

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

1. Claimant was an active FIP recipient who was referred to Work First.

2. Claimant was assigned to the Ferndale Career Center and was required to job search twenty (20) hours per week.
 3. The Department testified that Claimant was noncompliant as follows:
 - a. Week of 2/6/09 – Only two hours in career center
 - b. Week of 2/13/09 – Only four hours in career center
 - c. Claimant failed to turn in any logs for off site search
- See Exhibit 1, pp. 6-7.
4. A notice of noncompliance was issued on 2/28/09 which scheduled a triage date for 3/11/09. (Exhibit 1, p. 2).
 5. Claimant attended the triage and signed a letter agreeing to find reliable day care for her children and job search on a weekly basis (Exhibit 1, p. 3-4).
 6. Claimant testified that at the time of the noncompliance, her four month old son was sick with Reflux disease/failure to thrive.
 7. Claimant testified that her son required feeding every two hours around the clock and that he would vomit 3-4 times per day. In addition, because of all the vomiting, Claimant's son needed to be watched closely when sleeping to make sure that he did not choke on his vomit.
 8. Claimant produced a DHS 54A Medical Needs form as well as a note from the minor child's physician. The doctor note indicates that Claimant was excused from Work First for two (2) months. It is dated 3/18/09. (Exhibit 2).
 9. On 3/24/09, the Department terminated benefits effective 3/11/09 as Claimant did not comply with the triage contract.
 10. On June 1, 2009, the Department received the Claimant's written hearing request.

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).

Federal and State laws require each work eligible individual in a 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. PEM 230A. All work eligible individuals who fail, without good cause, to participate in employment or self-sufficiency-related activities will be penalized. PEM 233A. Failure to appear at a JET program results in noncompliance. Id.

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 at 4. Good cause includes having an immediate family member with an illness or injury that requires in-home care by the client. Id. It also includes lack of child care that is appropriate, suitable, affordable, or within reasonable distance of the client's home or work site. PEM 230B, p. 8. The care must be appropriate to the child's age, disabilities and other conditions. Id. The penalty for noncompliance without good cause is FIP closure. PEM 233A at 6. If good cause is established the negative action is to be deleted. Id. at 12.

In this case, the Claimant provided credible testimony that her four month old son was having medical issues that required exceptional care. In addition, Claimant provided a doctor's note before the expiration of the first noncompliance agreement due date of 3/20 indicating that Claimant needed to provide in home care to her son because of his medical condition. Prior to the doctor writing the note contained in Exhibit 2, Claimant testified that the diagnosis for her son was uncertain. Claimant also testified, however, that she was providing care for her 4 month old above and beyond what was normally required. Claimant was getting up every two hours around the clock to feed her baby. Claimant would clearly have been suffering from fatigue at keeping that schedule up throughout the night for months on end. Furthermore, Claimant was required to clean up vomit three or four times per day.

Claimant further testified that she was unable to find appropriate child care for her baby given his medical needs. The person who was watching the minor child was also watching a 3, 4 and 7 year old. Claimant testified that when the babysitter could not handle the baby, Claimant would get a phone call and have to go pick up the baby. Given the baby's medical condition, Claimant did not have appropriate child care. While Claimant may not have verbalized herself sufficiently at the triage to express the problem with her child care situation, she did indicate that child care was an issue. The undersigned finds that Claimant has shown good cause that she was incapable attending Work First.

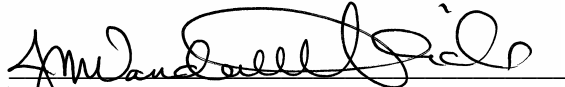
Based upon the foregoing facts and relevant law, it is found that the Department's determination is REVERSED.

DECISION AND ORDER

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

Accordingly, it is ORDERED:

1. The Department's 3/11/09 negative action for noncompliance shall be deleted.
2. The Department shall reopen the Claimant's FIP case from the date of closure, 3/11/09 and supplement the Claimant with any lost benefits she was otherwise entitled to receive.


Jeanne M. VanderHeide
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 11/02/09

Date Mailed: 11/09/09

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.

JV/dj

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