

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: 2009-4500

Issue No: 1021

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

February 18, 2009

Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Tyra L. Wright

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, a hearing was held on February 18, 2009. Claimant appeared and testified. A Family Independence Manager and another worker represented the Department.

ISSUE

Did the Department act properly in sanctioning Claimant by closing her Family Independence Program (FIP) case for three months as a sanction on the grounds that she failed to attend 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) Claimant is a FIP recipient.
- (2) Claimant was informed of her responsibility to participate in the JET program.

(3) Claimant began attending JET Work First on October 13, 2008.

(4) Claimant began working at an automotive supplier [REDACTED], on October 16, 2008.

(5) As a result of her new employment, Claimant missed her JET appointments.

(6) A triage meeting was scheduled for November 10, 2008. Claimant attended the triage meeting. At the meeting, Claimant was told that her employment needed to be verified.

(7) Claimant asked her employer to complete the New Hire Employment Report, FIA- 4635 form. She told the employer that DHS requested the form be completed for her benefits case.

(8) Claimant asserted that the employer refused to complete the form, telling her that the employer did not complete DHS forms. The employer told Claimant to provide her check stubs as proof of her employment.

(9) Claimant called her Department case worker to report her employer's response. Because Claimant had just begun working, she waited for her check stubs.

(10) While at the triage meeting, Claimant also told the Department what her employer had said when she presented the New Hire Employment report. Claimant also brought to the triage meeting her check stubs for the weeks ending [REDACTED] and [REDACTED].

(11) The check stubs show that Claimant worked 32 hours during the week ending [REDACTED] and 31.25 hours during the week ending [REDACTED]. (Exhibits 7 and 8).

(12) At the triage meeting, the Department determined that Claimant had no good cause for failing to attend JET for two weeks. (Exhibit 5).

(13) Claimant disagreed with the Department no-good-cause determination because the Department worker did not try to assist her and because the Department did not consider the

proof she offered for missing JET Work First established that she was working at the [REDACTED] [REDACTED]. (Exhibit 1).

(14) The Department received Claimant's hearing request on November 10, 2008.

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 for FIP are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

DEPARTMENT PHILOSOPHY

FIP

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

The goal of the FIP penalty policy is to obtain client compliance with appropriate work and/or self-sufficiency related assignments and to ensure that barriers to such compliance have been identified and removed. The goal is to bring the client into compliance.

Noncompliance may be an indicator of possible disabilities. Consider further exploration of any barriers (PEM 233A, p. 1)

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. (PEM 233A, p. 4)

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Under PEM 233A, clients are required to “participate in employment and self-sufficiency related activities and to accept employment when offered.” The goal is “to assist clients in removing barriers so they can participate in activities which lead to self-sufficiency.” In this case, Claimant obtained a job at [REDACTED] and her work schedule conflicted with JET Work First. It is counter-intuitive that she would not attend her employment so that she could attend a program intended to lead her to employment or self-sufficiency. Under PEM 233A, the triage meeting is scheduled to give Claimant’s an opportunity to establish good cause for the failure to comply with JET requirements. In this case, the Department refused to consider Claimant’s evidence that she worked during the two weeks that she missed JET Work First. Under these circumstances, it is found that the Claimant did not refuse to participate in the JET Step Program, but rather had a conflict with her work schedule. The Department did not consider her work schedule at the triage meeting. Under these circumstances it is found that the Department acted improperly in closing Claimant’s FIP case due to noncompliance with JET program requirements.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department improperly sanctioned Claimant by closing her FIP case.

Accordingly, the Department's action is REVERSED. The Department is ordered to calculate the FIP benefits Claimant would have received had she not been improperly sanctioned and issue any retroactive FIP benefits that she is eligible to receive.

/s/ _____
Tyra L. Wright
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: February 23, 2009

Date Mailed: March 2, 2009

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.

TLW

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