

[REDACTED]

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.: 2009-5871  
Issue No.: 1038  
Case No.: [REDACTED]  
Load No.: [REDACTED]  
Hearing Date:  
March 4, 2009  
Wayne County DHS (17)

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 held in Detroit, Michigan on March 4, 2009. [REDACTED] appeared and testified. The Claimant was represented by [REDACTED]. [REDACTED] and [REDACTED] appeared on behalf of the Department.

ISSUE

Whether Department properly terminated the Claimant's FIP case based upon the failure to participate in 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 is a FIP recipient.

2. In June 2008, the Claimant's FIP benefits were pended for closure effective June 24, 2008 due to JET noncompliance. (Exhibit 1)
3. The Claimant participated in a triage which ultimately led to the reinstatement of her benefits effective July 1, 2008.
4. On [REDACTED], the Claimant submitted to her previous worker, a Medical Needs form indicating the Claimant required bed rest because of her high risk pregnancy.
5. The Claimant testified that she was informed by the prior worker that she was temporarily deferred from participation.
6. The prior worker did not participate in the hearing.
7. The Claimant was referred back to the JET program on July 15, 2008 (by previous worker) and again on September 23, 2008 by her current worker.
8. The Claimant denied receipt of the September 23<sup>rd</sup> referral but noted she as still deferred from participation at that time.
9. On November 25, 2008, the Department pended the Claimant's FIP benefits for closure effective December 9, 2008 due to the JET noncompliance.
10. On November 26, 2008, the Department sent the Claimant a Notice of Non-compliance instructing her attend a December 4, 2008 triage. (Exhibit 4)
11. The Claimant participated in the triage by phone because she had just gave birth to her son two days previously.
12. The Department determined that good cause was not established for her failure to participate in the JET program. The Claimant denied receipt of the appointment notice.

13. During this time, the Claimant changed her residency.
14. The Claimant did not attend as scheduled resulting in the scheduling of a triage for November 3, 2008. (Exhibits 5, 8)
15. On [REDACTED], a Medical Needs form was faxed over to the Department but was not received by the Claimant's worker. (Exhibit 10)
16. On October 24, 2008, the Claimant's case was pended for closure effective November 6, 2008 for the JET noncompliance. (Exhibits 6, 9)
17. On November 3, 2008, the Department received the Claimant's written hearing request protesting the negative action.
18. The Claimant did not attend the triage thus resulting in a no good cause determination. (Exhibits 6, 7)
19. The Claimant received notification of the triage date on November 30, 2008. (Exhibit 11)
20. The Claimant did not receive her FIP allotment for December 2008. (Exhibit 12)
21. During the hearing, the Department issued a Supplemental Payment Authorization to the Claimant for the month of December 2008. (Exhibit 13)

#### 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 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, p. 1 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, p. 1 The FSSP seeks to assist clients to achieve self-sufficiency, whenever possible, by identifying and removing barriers. PEM 228, p. 1 All Work Eligible Individuals (“WEI”), unless deferred, are required to must engage in employment or participate in other approved activities. PEM 230A, pp. 1, 4 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, p. 1 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, p. 3 Good cause must be verified and documented. PEM 233A, p. 3 Failure to comply without good cause results in FIP closure. PEM 233A, p. 5 The first and second occurrences of non-compliance results in a 3 month FIP closure. PEM 233A, pp. 5-6

Deferrals from JET participation are temporary. PEM 230A, p. 11 Short-term incapacity expected to last less than three months are deferred for up to three months. PEM 230A, p. 11 When verification for mental or physical illness, limitation, or incapacity indicates the disability will last more than three months, the employment code is set to IN; a Medical Review Date is entered for a three month follow up; the client is required to sign a release (DHS 1555E); and a request for a Michigan Rehabilitative Services (“MRS”) consultation is made. PEM 230A, p. 13

JET participants are not terminated from the program without first scheduling a triage meeting to discuss the non-compliance and good cause. PEM 233A, p. 7 Clients must comply with the triage requirements within the negative action period. PEM 233A, p. 7 Good cause is based upon the best information available during the triage and prior to the negative action date. PEM 233A, p. 7 Good cause may be verified by information already on file. PEM 233A, p. 7, 8 If the client does not provide a good cause reason within the negative action period, good cause is determined based upon the best information available. PEM 233A, p. 11

In this case, the Claimant was previously deferred from JET participation due to medical issues with her minor child. The Claimant submitted the Medical Needs form, albeit later than initially requested, however the form was not received by the Claimant's worker resulting in a JET referral. During this time, the Claimant changed addresses which further delayed correspondence from the Department to the Claimant. In addition, the Claimant testified credibly, as was corroborated by the Claimant's witness, that she did not receive notification of the triage until after the scheduled date. In support, the Claimant presented an envelope from the Department originally postmarked October 30 with a notification of address change postmarked November 30, 2008. Further, although the Claimant timely requested a hearing, the FIP benefits were closed for the month of December. During the hearing, the Department issued a supplement to the Claimant to correct this error. There was no indication that the Claimant was not cooperating with the Department, nor was she refusing to comply. Under these facts, it is found that the Claimant established good cause for not initially reporting to JET (did not receive the notice) and for not attending the triage (received notice after triage date). Accordingly, the Department's actions are not upheld.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department improperly closed the Claimant's FIP case. Accordingly, it is held:

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

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

Date Signed: 03/17/09

Date Mailed: 03/18/09

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 60 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.

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