

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: 2009-7564
Issue No: 1021
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
February 11, 2009
Washtenaw 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 11, 2009. Claimant personally appeared and testified.

ISSUE

Did the Department act properly in sanctioning Claimant by closing her Family Independence Program (FIP) case on the grounds that she failed to attend the Jobs, Education and Training (JET) program without good cause?

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 was a FIP recipient and she received [REDACTED] in monthly FIP benefits.
- (2) Claimant was required to attend the JET program.

(3) On September 18, 2008, the Department notified Claimant that she was to report to a triage meeting on September 24, 2008 to allow her the opportunity to demonstrate good cause for her failure to participate in the JET program. (Exhibit 1).

(4) Claimant attended the triage meeting and was given a second chance to attend JET on September 29, 200. Claimant missed the September 29, 2008 JET appointment due to transportation programs. Claimant relied on the city bus for transportation.

(5) Claimant's young son also was transported to Head Start by bus. On September 29, 2008, his bus came after the city bus that Claimant would have taken to her JET Work First program. Therefore, the need to put her young son on his bus before getting on a city bus to go to JET resulted in Claimant missing her JET appointment.

(6) Claimant, who was also pregnant at the time, called the Department to report her transportation problem.

(7) Claimant also missed attending JET on October 6, 2008 due to the same transportation problem.

(8) Work First terminated her JET referral on October 7, 2008 and the Department worker closed Claimant's case as a sanction for non-compliance on October 8, 2008.

(9) Claimant gave birth to a second son [REDACTED]

(10) Claimant disagreed with the Department on the grounds that she was doing her best to attend JET Work First but had transportation problems.

(11) The Department received Claimant's hearing request on November 20, 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 POLICY

FIP, RAP Cash

Federal and State laws require each work eligible individual (WEI) in the FIP and RAP 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. These clients must participate in employment and/or self-sufficiency related activities to increase their employability and obtain stable employment. (PEM 230A, pg. 1)

NONCOMPLIANCE PENALTIES FOR ACTIVE FIP CASES AND MEMBER ADDS

The penalty for noncompliance without good cause is FIP closure. Effective April 1, 2007, the following minimum penalties apply:

- For the first occurrence on the FIP case, close the FIP for not less than three calendar months unless the client is excused from the noncompliance as noted in [First Case Noncompliance Without Loss of Benefits](#) below.
- For the second occurrence on the FIP case, close the FIP for not less than three calendar months.
- For the third and subsequent occurrence on the FIP case, close the FIP for not less than 12 calendar months. (PEM 233A, p. 6).

###

Assisting the Client

All Programs

The local office must assist clients who ask for help in completing forms (including the DCH-0373-D) or gathering verifications.

Particular sensitivity must be shown to clients who are illiterate, disabled or **not** fluent in English.(PAM 105, p. 10)

In this case, Claimant did not request transportation services from the Department but informed her worker that she was having transportation problems. The Department worker, however, knowing that Claimant had transportation problems, a young son who attended Head Start, and that Claimant was pregnant, did not suggest Claimant seek the transportation assistance that was available. Less than two weeks after missing her last JET appointment, Claimant gave birth to another child. It is found that Claimant was making a reasonable effort to attend JET and the Department should have given Claimant another opportunity to attend JET or at least suggested that she seek the available transportation assistance. Under these circumstances, it is found that the Department acted improperly in closing Claimant's FIP case.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department improperly closed Claimant's FIP case as a sanction for her noncompliance.

Accordingly, the Department's action is REVERSED. The Department is ORDERED to reopen Claimant's FIP case and issue any retroactive benefits she is entitled to receive.

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

Date Signed: February 17, 2009

Date Mailed: February 20, 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 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.

TLW

cc:

A large black rectangular redaction box covers the names and contact information of the recipients listed under the 'cc:' field.