STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF: ███████████,

Claimant

Reg No: 201011854
Issue No: 1021
Case No: ██████
Load No: ████████
Hearing Date:
February 1, 2010
Macomb 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 February 1, 2010. The Claimant appeared and testified along with her sons, ██████████ and █████████. Etivia Thomas, case manager appeared on behalf of the Department.

ISSUE

Whether the Department properly issued a negative action notice and closed Claimant's FIP benefits effective 10/17/09 for a failure to comply with Work First requirements?

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's 17 year old son who was not enrolled in school was also referred to Work First.

3. The JET Case Notes indicate that Claimant did not attend Work First on 7/21/09 and 7/23/09 and did not submit homework on 7/20/09-7/23/09 thereby exceeding the 16 hour allotment. (Exhibit 4).

4. Claimant testified that she was unable to attend Work First due to medical problems from knee surgeries and depression.

5. A triage was held on 8/12/09 and Claimant appeared.

6. At the triage, the Department did not find good cause for Claimant's participation absences and entered the first noncompliance against Claimant.

7. The Department then granted Claimant a medical deferral based on a Medical Needs form signed by Claimant's doctor on ███████.

8. Claimant's son was referred back to Work First to report on August 17, 2009.

9. Claimant and her son testified that the son appeared for Work First on 8/17/09.

10. However, the son did not appear on 8/20/09 and failed to submit homework for 8/17/09-8/21/09.

11. A triage was scheduled for 9/16/10 and no good cause was found.

12. Claimant's FIP benefits were terminated effective 10/17/09 due to noncompliance.

13. On November 3, 2009, the Department received the Claimant's written hearing request.

14. The record was left open to allow Claimant to submit a wage verification for her son's employment during the period of nonparticipation. A verification was submitted and is attached as Exhibit 5.

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 Bridges/Program Administrative Manual (BAM/PAM), the Bridges/Program Eligibility Manual (BEM/PEM) and the Reference Tables (RFT).

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

Full-time high school students are given credit for participation in Secondary Education. They are neither required to submit a FAST, develop an FSSP, nor participate in employment services as long as they continue full-time school attendance. BEM/PEM 230A, p. 7. Once a 16 or 17 year old is no longer enrolled in school full time, however, s/he becomes a mandatory work eligible individual.

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. BEM/PEM 233A at 4. Good cause includes the following:

1.	Client is employed 40 hours per week and earning minimum wage;

2. Client is physically or mentally unfit for the job or activity as shown by medical evidence or other reliable information;

3. Illness or injury for client or family member;

4. Failure by the Department to make reasonable accommodation for Client's disability;

5. No appropriate, suitable, affordable and reasonably close child care;

6. No transportation;

7. Unplanned event such as domestic violence, health or safety risk, religion, homelessness, jail or hospitalization;

8. Long commute.

PEM 233A, pp. 3-4.

In the present case regarding the first negative action notice, Claimant testified that she was incapable of performing the JET job duties due to her mental and physical impairments. In addition, Claimant produced a physician signed medical needs form to support her medical impairments. It is unclear why the Department found the doctor note sufficient to support a medical deferral but would not grant Claimant good cause for missing JET as it was the same medical conditions for both. The Administrative Law Judge finds that Claimant had good cause for nonparticipation in JET.

Regarding the second negative action notice, Claimant and her son testified that the son did not appear for Work First as he was working part time for a couple weeks. The record was left open to allow Claimant to submit verification regarding the son's employment. A verification was submitted which indicates that the son was employed on a part time temporary basis. The reported hours worked are 5 hours in the pay received on 8/14/09 and 7 hours in the pay received on 9/4/09. These hours do no qualify as good cause as it is significantly less than 40 hours per week. Accordingly, the undersigned finds that the son was not in compliance with

Work First. However, since the undersigned found good cause for the first negative action notice, the 9/2/09 negative action notice would be the first one on the file.
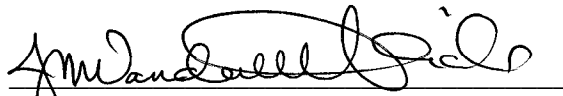
Accordingly, based upon the foregoing facts and relevant law, it is found that the Department's determination is REVERSED as the Claimant's FIP benefits should not have been terminated as a result of a first issuance of a negative action notice.

<u>DECISION AND ORDER</u>

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds the Department's determination is upheld.

Accordingly, it is ORDERED:

1. Good cause exists for the 8/12/09 triage date. Any negative action for noncompliance associated with this triage date shall be deleted.

2. No good cause is found for the 9/2/09 negative action and 9/16/09 triage. Due to the deletion of the negative action in (1) above, the 9/2/09 negative action shall count as Claimant's first.

3. The Department's decision to close Claimant's FIP case is REVERSED as Claimant only had one negative action on her case.

4. The Department shall reinstate Claimant's FIP case from the date of termination, 10/17/09 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:__03/10/10_____

Date Mailed:__03/15/10_____

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

cc: