

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.: 2010-11856
Issue No.: 1013
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
March 25, 2010
Wayne County DHS (35)

ADMINISTRATIVE LAW JUDGE: Jan Leventer

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 and Claimant's request for hearing. After due notice, a telephone hearing was conducted from Detroit, Michigan, on March 25, 2010. Claimant appeared and testified. [REDACTED]

[REDACTED], testified on behalf of the Department of Human Services (DHS).

ISSUE

Whether DHS properly issued a negative action for Claimant's failure to attend the [REDACTED] program on Tuesday, October 27, 2009?

FINDINGS OF FACT

The Administrative Law Judge, based on competent, material and substantial evidence in the record and on the entire record as a whole, makes the following findings of fact:

1. Claimant was an active FIP recipient who participated in the JET Work First program.
2. On September 28, 2009, Claimant was hired as a telemarketer at [REDACTED].
3. On Friday, October 23, 2009, Claimant was laid off from [REDACTED] and informed [REDACTED], that day.
4. Claimant reported to [REDACTED] on Monday and Tuesday, October 26 and 27, 2009.
5. A Notice of Noncompliance was issued on November 6, 2009 for failure to comply with [REDACTED] on October 27, 2009.
6. A Good Cause Determination, DHS Form 3050, was never issued with regard to Claimant's alleged failure to comply on October 27, 2009.
7. On November 19, 2009, Claimant submitted a written hearing request to DHS.
8. DHS deleted the proposed negative action pending the hearing before the Administrative Law Judge.

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 Michigan Compiled Laws 400.10 *et seq.*, and Michigan Administrative Code Rules 400.3101-3131. The DHS FIP policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables (RFT). All three manuals are available online at www.mich.gov.

Federal and State law 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 the person is temporarily deferred or engaged in other activities that meet participation requirements. BEM 230A. All work-eligible individuals who fail without good cause to participate in employment or self-sufficiency-related activities will be penalized. BEM 233A. Failure to appear at a JET program results in noncompliance. *Id.*

Good cause is defined as a valid reason for noncompliance with employment and/or self-sufficiency-related activities based on factors that are beyond the control of the noncompliant person. BEM 233A, p. 4. Good cause includes being physically or mentally unfit for the job or activity as shown by medical evidence or other reliable information. It also includes having an immediate family member with an illness or injury that requires in-home care by the client. *Id.* The penalty for noncompliance without good cause is FIP closure. *Id.* at 6. If good cause is established, the negative action is deleted. *Id.* at 12.

In this case, the computer lab log from [REDACTED] shows that, on Tuesday, October 27, 2009, Claimant checked in to the [REDACTED] computer lab at 9:35 a.m. and checked out at 10:50 a.m. Claimant confirmed her signature on the October 27, 2009, computer lab room log.

The [REDACTED] Case Manager testified she was present on October 27, but she failed to document when she left and stated, “She did not sign out with me.” In light of the computer lab log, I do not find [REDACTED] testimony credible. I also find [REDACTED] testimony even less credible because he presented the log as a [REDACTED] participation log when, in fact, it is merely a sign-in sheet for one room in the building and not for the [REDACTED] Program. Indeed, the compilation of log sheets presented as DHS Exhibit #14 contains logs from two rooms, Class

Room Training *and* the Computer Lab. I conclude there is no [REDACTED] sign-in sheet at [REDACTED].

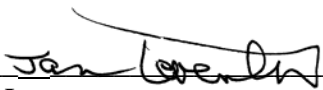
I conclude that Tuesday, November 27, 2009, the alleged date Claimant failed to comply, is a day on which Claimant did comply. I conclude that DHS' assertion in the Notice of Noncompliance that she did not participate in [REDACTED] on that day, is unfounded. I conclude that, as Claimant has complied with the [REDACTED] program, her FIP benefits must be continued in accordance with DHS policies and procedures. 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, REVERSES the Department's determination to impose a three-month penalty on Claimant.

Accordingly, it is Ordered:

1. The Department's proposed negative action for noncompliance effective December 1, 2009 shall be deleted.
2. The Department shall supplement the Claimant with any lost benefits she was otherwise entitled to receive.



Jan Leventer
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: April 7, 2010

Date Mailed: April 7, 2010

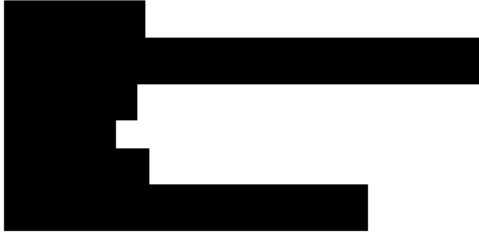
NOTICE: Administrative Hearings may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order.

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.

JL/pf

cc:

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