

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: 201012436

Issue No: 1021

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

April 5, 2010

Wayne 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 filed on November 30, 2009. After due notice, a telephone hearing was conducted on April 5, 2010. The Claimant appeared and testified. [REDACTED], FIM and [REDACTED] Case Manager for Work First appeared on behalf of the Department.

ISSUE

Whether the Department properly closed Claimant's Family Independence Program ("FIP") benefits for a failure to comply with Work First?

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 JET.
2. Work First referred Claimant to the Childcare Volunteer program.

3. The Department testified that Claimant's volunteer hours at this program counted towards her Work First hours and that the volunteer position had potential to turn into a paid position.
4. On 9/22/09, Claimant informed the JET worker that she was going to quit the Childcare Volunteer program.
5. Work First then changed Claimant's volunteer hours from midnights to days in order to allow Claimant to get transportation to and from the job site. As a result, Claimant agreed to continue in the Childcare Volunteer program working mornings.
6. Claimant did not report to the Childcare Volunteer Program on 9/22/09 because she was having gas and electric service turned on in her home.
7. Claimant testified that she attempted to contact Work First on a friend's cell phone to tell them that she would not be reporting on 9/22/09 and was unable to get through to talk to anyone. Claimant then gave her mother the phone number and Claimant's mother called until she got through.
8. Claimant did not report to the Childcare Volunteer Program on 9/23/09 as she had an appointment with her caseworker at the local DHS office. Claimant did not call Work First to advise them that she would not be appearing.
9. Claimant testified that she did not realize that her DHS appointment would conflict with the Childcare Volunteer Program hours as she was previously volunteering midnights.
10. The Department does not contest that Claimant had an appointment at DHS on 9/23/09.

11. Claimant was submitted for triage on 9/23/09. A triage was held on 10/23/09. No good cause was found.
12. Effective 11/7/09, Claimant's FIP case was closed for noncompliance.
13. On November 30, 2009, the Department received the Claimant's written hearing request.

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 Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) 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 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 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 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.

BEM 233A, pp. 3-4.

In the present case, the Claimant did not appear for her volunteer hours on two days because 1) she was getting her lights and gas turned on; and 2) she had an appointment with her caseworker at DHS. The Department testified that because Claimant did not show or call in to the Childcare Volunteer program, the contact was compromised and can no longer be used by Work First.

Good cause is only given for reasons that are beyond the control of the Claimant. In the subject case, Claimant testified that she had been without utilities for a period of time and finally was scheduled to get the utilities activated. Once she realized that she would not be able to attend the volunteer program, she attempted to reach her JET coordinator with a friend's phone. When she had to return the friend's phone, Claimant had her mother continue to call until her mother got through. The Administrative Law Judge finds that this constitutes good cause as the utility installation was beyond the control of the Claimant.

Claimant missed the second day due to a scheduled appointment with her DHS caseworker. The caseworker was not present at the hearing and no evidence was submitted

regarding the reason for the DHS appointment. The Department does not dispute that Claimant attended an appointment on that day. It is possible that Claimant's benefits could have been terminated if she did not appear for the appointment. Furthermore, Claimant would have unlikely been able to get through by telephone to her caseworker to reschedule the appointment. The undersigned finds that Claimant's testimony (that she did not think about the DHS appointment due to the change in work schedule) is credible. While the Administrative Law Judge sympathizes with the Department in that Claimant's nonattendance resulted in a compromise of the contact with the volunteer program, the undersigned finds that the Claimant also had good cause to miss the volunteer program due to her appointment with DHS.

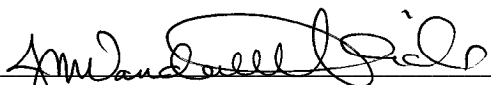
Accordingly, the Department has failed to prove that Claimant was noncompliant with Work First. Based upon the foregoing facts and relevant law, it is found that the Department's determination is REVERSED.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds the Department's determination is not upheld.

Accordingly, it is Ordered:

1. The Department's negative action and case closure effective 11/7/09 for noncompliance for missing Work First shall be deleted.
2. The Department shall reopen Claimant's FIP cases as of the date of closure, 11/7/09 and supplement the Claimant with any lost benefits she was otherwise entitled to receive.

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

201012436/JV

Date Signed: April 19, 2010

Date Mailed: April 21, 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.

JV/hw

cc:

