

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: 201014796

Issue No: 1021

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:
March 3, 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 March 3, 2010. The Claimant appeared and testified. [REDACTED], Case Manager, appeared on behalf of the Department.

ISSUE

Whether the Department properly terminated Claimant's Family Independence Program ("FIP") benefits effective January 1, 2010 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:

Claimant was an active FIP recipient who was referred to Work First.

1. The JET Case Notes indicate the following issues with Claimant's participation in Work First:
 - a. 11/2 – Customer did not complete homework assignment
 - b. 11/3 - Customer did not complete homework assignment
 - c. 11/4 - Customer did not complete homework assignment
 - d. 11/6 - Customer did not complete homework assignment
 - e. 11/5 – Customer was late and submitted incomplete homework
 - f. 11/9 – Customer was late and submitted incomplete homework (Exhibit B).
2. Claimant appeared for a triage on December 3, 2009. No good cause was found and Claimant was required to report back to work first on 12/7/09. (Exhibit A).
3. Claimant appeared late on 12/7/09 and was not allowed to participate in Work First.
4. Claimant testified that she had difficulty learning the bus schedule and had unreliable child care.
5. Claimant's FIP benefits were terminated effective 1/1/10 due to noncompliance.
6. On December 18, 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.

Clients can be deferred from JET in the following circumstances:

1. Enrolled in full time education;
2. Working 40 hours per week;
3. Lack of child care;
4. Care of child or post partum delivery;
5. Short term mental or physical incapacity;
6. Domestic violence;
7. Low intellectual capacity or learning disability

At the discretion of the Department, the following can be considered for a deferral:

1. A temporary critical event (such as homelessness)
2. Pregnancy Complications
3. One parent or other caretaker of a dependent child in the home who is actively participating in the *Early On* program. The child and parent must BOTH be actively participating in the service plan. Participation must be verified by the *Early On* service coordinator.

BEM 230A, p. 7 *et. seq.*

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 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, Claimant testified that she had difficulty with the bus system which made her late, along with unreliable child care. Claimant's testimony regarding the child care is supported by the JET Case Notes which indicate that child care was a barrier to successful completion of Work First. The case notes indicate that Claimant was referred to Support Service for a child care referral. However, Claimant testified that her benefits were terminated before she had an opportunity to utilize this service. Claimant also testified that, on the dates in question, she was using her brother or sister-in-law who were less than reliable. Furthermore, Claimant testified that her mother is now available and is reliable.

Accordingly, based upon the foregoing facts and relevant law, it is found that Claimant had good cause for noncompliance with Work First. Therefore, 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 decision to terminate Claimant's FIP benefits effective 1/1/10 is REVERSED.
2. The Department's negative actions relating to the 12/3/09 triage and the subsequent case closure on 12/9/09 for noncompliance shall be deleted.

3. The Department shall reopen the Claimant's FIP case from the date of closure, 1/1/10 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: March 25, 2010

Date Mailed March 25, 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 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/hw

cc:

