

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.: 201024322

Issue No.: 1021

Case No.:

[REDACTED]

Load No.:

Hearing Date:

May 10, 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 on March 22, 2010. After due notice, a hearing was conducted on May 10, 2010 from Detroit, Michigan. The Claimant appeared and testified. [REDACTED] FIM and [REDACTED] FIS appeared on behalf of the Department.

ISSUE

Whether the Department properly issued a negative action and sanction on Claimant's Family Independence Program ("FIP") case for noncompliance 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. Claimant attended Work First and on 9/29/09, Claimant was referred to triage for poor attendance. (Exhibit 1, p. 3).

3. On February 1, 2010, the Department mailed Claimant a Notice of Noncompliance with a scheduled triage date of 2/11/10. (Exhibit 1, p. 1-2).
4. A triage was held on 2/11/10 and no good cause found for poor attendance.
5. The Department did not offer any evidence or testimony regarding the dates of Claimant's poor attendance. No-one was present from Work First, nor was anyone present who attended the triage, nor was anyone available to testify regarding the dates that Claimant missed for attendance.
6. Claimant testified that she she missed some days of Work First because her daughter was ill. In support, Claimant provided an Emergency Room Discharge summary for her daughter dated 9/21/09.
7. Claimant was placed in negative action and her FIP case sanctioned effective 2/11/10.
8. On March 22, 2010, 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. PEM 230A. All work eligible individuals who fail, without good cause, to participate in employment or self-sufficiency-related activities will be penalized. PEM 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. BEM 233A at 4. Good cause includes an unplanned event or factor which likely prevents or significantly interferes with employment and/or self-sufficiency-related activities. Id. The penalty for noncompliance without good cause is FIP closure. Id. at 6. If good cause is established the negative action is to be deleted. Id. at 12.

None of the Department's representatives present at the hearing were familiar with the dates that Claimant had exhibited poor attendance. The Department submitted the Update/View Case Notes (Exhibit1, p. 3), which indicates that Claimant was submitted to triage for poor attendance. There is nothing to indicate what days Claimant missed. Furthermore, Claimant provided evidence of good cause due to her daughter being in the hospital in the vicinity of the triage referral. Due to the lack of testimony or documentation from the Department, the undersigned finds that the Department has failed to prove that Claimant was noncompliant with Work First.

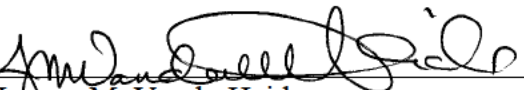
Based upon the foregoing facts and relevant law, it is found that the Department's determination is REVERSED.

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 of 2/11/10 for noncompliance for noncompliance shall be deleted.
2. The Department shall reopen Claimant's FIP cases as of the date of closure, 2/11/10 and supplement the Claimant with any lost FIP benefits she was otherwise entitled to receive.

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

Date Signed: May 27, 2010

Date Mailed: May 27, 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:

