

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.: 201025958

Issue No.: 1021

Case No.:

[REDACTED]

Load No.:

Hearing Date:

May 12, 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. After due notice, a telephone hearing was conducted from Detroit, Michigan on May 12, 2010. The Claimant appeared and testified.

[REDACTED] FIS and [REDACTED] FIM appeared on behalf of the Department.

ISSUE

Whether the Department properly closed Claimant's Family Independence Program ("FIP") benefits 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 Work First.
2. Claimant testified that she began attending school at [REDACTED] in August of 2009.

3. Claimant was referred to triage on 9/9/09 when she had not attended Work First since 8/6/09. (See Update/View Case Notes, Exhibit 1, p. 2).
4. There was no one present at the hearing from Work First. Nor was there anyone present with first hand knowledge of the facts underlying the referral to triage.
5. Claimant testified that she met with someone from Work First regarding her school attendance and she was referred to a Work First supervisor regarding her situation. The Case Notes from Work First indicate the same. Id.
6. Claimant testified that she telephoned the Work First supervisor, left a message and never heard anything back.
7. Claimant testified that she took 9 credits at [REDACTED] in the Fall of 2009 and 11 credits in the Winter/Spring of 2010. Claimant is pursuing an Associate's degree in applied science. This is supported by Claimant's school documents. Exhibit 2.
8. Claimant's case was up for redetermination in January of 2010 at which point it was noticed that Claimant had never been submitted for triage.
9. A phone triage was held with Claimant on 1/5/10 at which time no good cause was found. (Exhibit 1, p. 2). There is no notice of noncompliance nor notice of the 1/5/10 triage contained in the hearing record.
10. Claimant testified that on 1/5/10, she personally submitted paperwork documenting her school attendance. Claimant testified that she also signed the log book at that time. Exhibit A.
11. The Department entered a negative action for noncompliance with Work First on 1/5/10 and closed Claimant's FIP benefits.
12. On March 3, 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. 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. BEM 233A at 4. Good cause includes the following:

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

Furthermore, a client can be deferred from JET requirements under certain circumstances, including enrollment in an approved education program. BEM 230B. A student enrolled at least half time in any recognized school, training program or institution of higher education meets the employment-related activities requirement. This includes persons attending school for GED or adult high school completion. The post-secondary education plan is an *approved* employment-related activity if, in the judgment of local office DHS staff, it enhances the client's employability. BEM 230B, p. 5.

In the subject case, the Claimant was referred for a triage in August of 2009 which was not held until January of 2010. It is apparent from the case record that Claimant asserted school attendance as a reason for not attending Work First back in August of 2009. Claimant was referred to a supervisor and Claimant attempted to contact that supervisor in order to obtain a deferral for her school attendance. Yet, Claimant never received a return phone call. The matter was then dropped by both the Department and Claimant until Claimant's redetermination.

There is no evidence that Claimant was given notice of the triage held on 1/5/10 which was conducted by telephone. Claimant turned in paperwork regarding her school attendance immediately. Presumably, as she was attending school, Claimant would have been able to do so previously had she been contacted by the Department. No-one at the hearing had any personal knowledge of the reasons for referral to triage other than the Claimant. Therefore, this Administrative Law Judge finds that the Department and/or Work First failed to determine

whether Claimant's schooling qualified for a deferral of Work First through an "approved employment-related activity". The approval or disapproval of the education should have been determined before Claimant was referred for a triage. Furthermore, Claimant was entitled to notice of noncompliance as well as notice of the triage.


Accordingly, based upon the foregoing facts and relevant law, it is found that the Department's determination to close Claimant's FIP case based on the 1/5/10 triage is REVERSED. The triage was improperly held based on 1) lack of notice; and 2) no deferral determination. The Department shall make a determination whether Claimant's ongoing education qualifies for a Work First deferral from the date of the Decision and Order forward.

DECISION AND ORDER

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

Accordingly, it is Ordered:

1. The Department's August, 2009 negative action for noncompliance and referral to triage, along with the 1/5/10 closure of FIP benefits is REVERSED.
2. The Department shall remove any negative action associated with the 1/5/10 FIP closure, reopen Claimant's FIP case retroactive to August, 2009 and supplement Claimant with any benefits to which she was otherwise entitled through the date of this Decision and Order.
3. The Department shall then make a determination whether Claimant's continued enrollment of classes at [REDACTED] qualifies as an approved employment-related activity from the date of the Decision and Order forward. Claimant's FIP benefits will be affected according to applicable policy according to this determination from the date of the Decision and Order forward.

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

Date Signed: May 28, 2010

Date Mailed: May 28, 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/htw

cc:

A large black rectangular redaction box covering several lines of text in the cc field.