

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.: 201026656

Issue No.: 1021

Case No.:

[REDACTED]

Load No.:

Hearing Date:
April 21, 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, an in person hearing was conducted from Detroit, Michigan on April 21, 2010. The Claimant appeared and testified. Claimant was represented by [REDACTED] of [REDACTED]. [REDACTED] JET Case Manager and [REDACTED] FIM, appeared on behalf of the Department.

ISSUE

Whether the Department properly issued a negative action and closed Claimant's Family Independence Program ("FIP") benefits effective 2/22/10 for a failure to attend 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 underwent a triage for noncompliance and the Department agreed to return her to Work First under a mandatory 10 day compliance (DHS-754) beginning February 22, 2010.
3. Claimant did not report to Work First on 2/22/10.
4. Claimant's case was closed on 2/22/10 due to not appearing for Work First.
5. Claimant testified that her children had a snow day on 2/22/10. Claimant attempted to call the local DHS office and was unable to get through. Claimant, therefore, assumed that DHS/Work First was also closed. Claimant did not have the number for the Work First location to call them directly. Nor did Claimant have internet access to obtain the number.
6. Claimant provided a note from a counselor indicating that her children (ages 13 and 14) have been enrolled in a non-residential counseling program since 1/4/10 due to anger management issues. The counselor states "to date youths have made some progress but I can not recommend that they be left unattended at this time."
7. On March 4, 2010, the Department received the Claimant's written hearing request.
8. Claimant should currently be receiving FIP benefits based on her timely hearing request. However, as of the date of the hearing, the benefits had not been restarted yet.

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 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.

If a triage results in a “*No Good Cause*” the Department may discuss and provide a DHS-754, First Noncompliance Letter, regarding sanctions that will be imposed if the client continues to be noncompliant. The client is then offered the opportunity to comply with the FSSP by the due date on the DHS-754 and within the negative action period. If the client fails to meet or contact the FIS or fails to provide verification of compliance without good cause, the three-month sanction applies. BEM 233A, p. 8.

In this case, the Claimant has had numerous issues with noncompliance. In the most recent incident, however, the Claimant was offered and signed a DHS-754. The regulations are clear that good cause still needs to be examined even during the compliance period following a client signing the DHS-754. The analysis that follows is limited to whether there was good cause for missing Work First on 2/22/10 as that is the incident currently at issue.

The Claimant provided credible testimony that, on the date of the required JET participation, there was a snow day closing her children's school. Claimant testified that she could not leave the children alone due to their anger management issues and provided a letter from a counselor supporting her statement. Furthermore, Claimant appeared at Work First the next day when it was not a school snow day. Accordingly, the undersigned finds that Claimant has shown good cause that Claimant had an unplanned event which significantly interfered with her ability to pursue self-sufficiently related activities and/or performing the JET requirements.

Based upon the foregoing facts and relevant law, it is found that the Department's determination to close Claimant's benefits effective 2/22/10 is REVERSED.

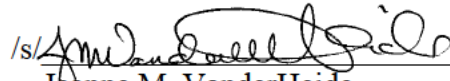
DECISION AND ORDER

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 for noncompliance, effective 2/22/10, shall be deleted.

2. The Department shall reopen Claimant's case, from the date of closure, returning Claimant to Work First and continuing the compliance period of the DHS-754.
3. The Department shall 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: May 6, 2010

Date Mailed: May 6, 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:

