

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: 20102860

Issue No: 1021

Case No:

Load No:

Hearing Date:

February 18, 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 February 18, 2010. The Claimant appeared and testified. Lois VanRyckeghem, JET Case Manager, appeared on behalf of the Department.

ISSUE

Whether the Department properly closed Claimant's Family Independence Program ("FIP") benefits effective 10/5/09 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:

1. Claimant was an active FIP recipient who was referred to Work First.
2. The JET Case Notes indicate the following issues with Claimant's participation in Work First:

- a. 9/1/09 – CI failed to turn in a job search log for 8/28/09 – loses 1 hour
- b. 9/1/09 – CI failed to appear – loses 6 hours
- c. 9/2/09 – CI failed to appear – loses 6 hours
- d. 9/3/09 – CI failed to appear – lost 6 hours

(Exhibit 1).

3. Claimant testified that on [REDACTED] she took her daughter to the Early On program. Claimant testified that there was no Early On programming that day, but that Claimant was unaware of that fact until she arrived.
4. Claimant testified that on one other day that she missed, she was attending an interview.
5. The Department testified that a deferral for attendance of Early On was considered but after discussing the time commitment with the Early On case worker, it was found not to qualify as a deferral.
6. Claimant's FIP benefits were terminated effective 10/5/09 due to noncompliance.
7. On October 7, 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.

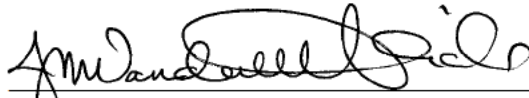
In present case, Claimant believes that she should have been deferred from Work First based on her participation in Early On with her daughter. After considering the testimony in the case, the Administrative Law Judge finds that the Department pursued this deferral option on behalf of Claimant. All of the other deferral options, however, entail a full time commitment. The Department testified that Claimant's Early On participation was limited to a couple hours a few times a week. While Claimant could have been excused from participation in JET during these times, it does not consist of enough hours to defer her Work First requirement entirely. This is supported by the fact that this deferral is at the discretion of the Department.

Furthermore, Claimant did not provide any testimony or evidence that would provide good cause for her noncompliance with JET. Claimant missed the entire day of Work First when she went to Early On - even though there was no Early On meeting scheduled, Claimant did not try to fit in any Work First hours or call the JET coordinator. In addition, Claimant would have been excused from Work First for a job interview, yet Claimant did not arrange that ahead of time either. Accordingly, based upon the foregoing facts and relevant law, it is found that the Department's determination is AFFIRMED.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds the Department's determination is upheld.

Accordingly, it is ordered that the Department's closure of FIP benefits effective 10/5/09 for noncompliance is AFFIRMED.



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

Date Signed: 03/10/10

Date Mailed: 03/11/10

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/dj

cc:

