

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.: 201029681

Issue No.: 1021

Case No.: [REDACTED]

Load No.: [REDACTED]

Hearing Date:

May 3, 2010

Oakland 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, telephone hearing was conducted from Detroit, Michigan on May 3, 2010. The Claimant appeared and testified.

[REDACTED], [REDACTED] appeared on behalf of the Claimant. [REDACTED]

JET case manager, 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 3/19/10 for a failure to attend Work First/JET orientation?

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. On January 29, 2010, the Department sent Claimant a notice of a JET orientation appointment on February 8, 2010. (Exhibit 1, p. 1).
3. Claimant did not attend the JET orientation. (Exhibit 1, p. 6).
4. Claimant testified that she did not receive the notice until two days after the date of the JET orientation. Claimant further testified that she immediately contacted the Department to inform them that she received the notice late.
5. The Department acknowledged that Claimant contacted the Department and reported receiving a late notice.
6. The Department testified that Claimant's 20 day time period to attend JET Orientation did not expire until February 19, 2010. Claimant was not returned to another orientation date for Work First.
7. On March 9, 2010, the Department sent Claimant a notice that she was noncompliant and scheduled a triage meeting on 3/23/10. (Exhibit 1, p. 8).
8. Claimant did not attend the triage on 3/23/10. Claimant testified that she assumed she would be sent another appointment for the JET orientation. As a result, Claimant appeared at the Work First location rather than the Department on the date of triage.
9. Claimant's case was closed effective 3/19/10 for noncompliance. In addition a 90 penalty was instituted.
10. On March 25, 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 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. Good cause must be considered even if the client does not attend. BEM 233A, p. 7.

The Department should coordinate with the client an agreed upon date for attendance at orientation which eliminates the need for multiple assignment dates or appointment changes. BEM 229, p. 2. Clients have 20 days after being sent a JET appointment notice to attend JET orientation. As a result, specialists should not manually enter denials prior to the twenty-second day after a JET referral is sent. BEM 229, p. 3.

In this case, the Claimant provided credible testimony that she received the notice of the Work First orientation after the scheduled appointment date. Claimant's testimony was corroborated by the Department as Claimant reported to the Department as soon as she received the notice. Claimant was willing to begin Work First on a newly scheduled date. In fact, Claimant testified that she thought the triage appointment was the new orientation date and tried to attend JET at that time. Since Claimant had called the Department within the 20 days, a new orientation appointment should have been scheduled. Furthermore, while Claimant did not appear at the triage (she went to Work First instead) the Department was aware of Claimant's reason's for not attending the JET orientation as Claimant had called with that information earlier. Even without Claimant present, the Department could have found good cause and scheduled a mutually agreeable date for the JET orientation.

Accordingly, the Administrative Law Judge finds that Claimant has shown good cause (not receiving timely notice) that 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 3/19/10 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 3/19/10, shall be deleted.
2. The Department shall reopen Claimant's case, from the date of closure, returning Claimant to Work First on a mutually agreeable date for JET orientation.

3. The Department shall supplement the Claimant with any lost benefits she was otherwise entitled to receive.

/s/ Jeanne M. VanderHeide

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

Date Signed: May 20, 2010

Date Mailed: May 20, 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:

