

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]
[REDACTED]
[REDACTED]

Reg. No.: 2010-47824
Issue No.: 1035
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: October 7, 2010
DHS County: Saginaw

ADMINISTRATIVE LAW JUDGE: Jay W. Sexton

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon claimant's request for a hearing. After due notice, an EXPEDITED telephone hearing was held on October 7, 2010, in Saginaw. Claimant appeared and testified under oath.

The department was represented by Sue Walker (Triage Worker), Jennifer Hooverman (JET Coordinator) and Jerrard Johnson (Work First Supervisor).

The Administrative Law Judge appeared by telephone from Lansing.

ISSUE

1. Did the department correctly decide to sanction claimant's FIP (August 1, 2010) due to claimant's failure to complete her 10-day Willingness to Comply and Test?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

1. Claimant and her minor child are former FIP recipients. Claimant's FIP grant was formerly \$403 per month.
2. All able-bodied FIP recipients are required to participate in Work First as a condition of ongoing FIP eligibility, if they are not otherwise gainfully employed.
3. In order for self-employed persons to be excluded from Work First, the self-employed person must have self-employment income equivalent to a 40-hour per week paying \$7.50 per hour.

4. On August 25, 2009, claimant was assigned to participate in Work First.
5. On April 11, 2010, claimant was employed at the [REDACTED]. Claimant was fired from her job on April 11, 2010.
6. On June 3, 2010, claimant was dismissed from Work First due to her job loss.
7. On June 14, 2010, the caseworker sent claimant Notice of Non-Compliance and Notice of Triage. The triage appointment was scheduled for June 25, 2010.
8. On June 25, 2010, claimant had out-patient surgery on her left arm.
9. On June 25, 2010, claimant appeared at her triage appointment with the triage worker for the department.
10. On June 25, 2010, the triage worker determined that claimant did not have good cause for being terminated by the [REDACTED].
11. During the triage meeting, the triage worker offered claimant a 10-Day Compliance Test. Claimant accepted the offer. She told the triage worker that she was able to work a community service job even though she recently had left arm surgery. During the triage meeting, claimant did not report any transportation issues.
12. At the triage meeting, the triage worker assigned claimant to bring a signed community service contract to the Work First office on June 30, 2010.
13. On June 30, 2010, claimant met with a Work First representative and reported she did not have a signed community service contract. Claimant's due date for presenting a signed Work First contract was extended to July 7, 2010.
14. On July 7, 2010, claimant met with her Work First representative. Claimant reported that she did not have a signed community service contract, as required under the 10-Day Compliance Test. During the meeting, claimant stated she was unable to work because she was on pain medications for her left arm and had no transportation.
15. Also on July 7, 2010, claimant provided a note from her doctor dated Tuesday, July 6, 2010, which states as follows:

TO WHOM IT MAY CONCERN:

[REDACTED] is under my care for his/her Left hand. The patient is able to return to work with the following restrictions:

No Left-handed work.

These restrictions are effective from June 17, 2010, for seven weeks.

Thank you [REDACTED]

16. On July 7, 2010, the JET caseworker decided that claimant had failed to complete her 10-Day Compliance Test because she did not have a signed community service contract and previously stated that she was able to work.
17. On July 14, 2010, the triage worker sent claimant a Notice of Case Action (DHS-1605) stating claimant's case would close due to non-compliance with Work First due to claimant's failure to satisfy her 10-Day Compliance Test.
18. On July 19, 2010, claimant requested a hearing. The proposed negative action was deleted pending a hearing.

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 (DHS or department) 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 Program Administrative Manual (PAM/BAM), the Program Eligibility Manual (PEM/BEM) and the Program Reference Manual (PRM).

The following department policies outline the applicable employment requirements for FIP recipients assigned to Work First.

DHS requires clients to participate in employment-related activities and to accept employment when offered. Our focus is to assist clients in removing barriers so they can participate in activities that lead to self sufficiency. However, there are consequences for a client who refuses to participate in employment-related activities or refuses to accept employment, without good cause. PEM/BEM 233A.

The record shows that the JET worker explained the Saginaw County Work First policy to claimant. This policy requires FIP recipients to participate in the Michigan Works program as a condition on ongoing eligibility for benefits. BAM/BEM 229, 230A, 230B, 233A, and 233B. See also PEM/BEM 220.

The preponderance of the evidence in the record shows that the JET worker properly assigned claimant to attend Work First. Claimant's 10-Day Compliance Test assignment was:

- (a) Find a community service work site;
- (b) Obtain a signed community service work site contract; and
- (c) Submit the signed community service work site contract to Work First by July 7, 2010.

The JET caseworker scheduled a triage meeting to enable claimant to provide a good cause reason for non-compliance with Work First (termination from the ABM Cleaning job). Claimant failed to provide good cause for termination from ABM.

In order to give claimant a second chance, the JET caseworker offered claimant a 10-Day Compliance Test.

The 10-Day Compliance Test required claimant to obtain a signed community service contract and submit it to the Work First representative on or before July 7, 2010. Although claimant accepted the JET caseworker's offer of a 10-Day Compliance Test, she failed to complete her 10-Day Compliance Test assignment because she did not present a community service contract to Work First by July 7, 2010.

On July 14, 2010, the JET caseworker determined that claimant did not complete her 10-Day Compliance Test successfully.

On July 14, 2010, the JET caseworker sent claimant a Non-Compliance Notice.

On July 19, 2010, claimant requested a hearing. Claimant's FIP benefits have continued pending the outcome of this hearing.

After a careful review of the record, the Administrative Law Judge concludes there is no evidence of arbitrary capricious action by the JET caseworker in sanctioning claimant's FIP case. The record clearly shows that the JET caseworker approved the 10-Day Compliance Test for claimant to give her a second chance to show that she could successfully complete her Work First requirement.

Unfortunately, claimant did not complete her initial Work First assignment, and she did not complete her 10-Day Compliance Test successfully.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the JET caseworker correctly decided to sanction claimant's FIP case due to claimant's failure to meet her Work First requirements, as agreed.

Accordingly, the department's action is, hereby, AFFIRMED.

/s/
Jay W. Sexton
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: October 22, 2010

Date Mailed: October 25, 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.

JWS/pf

cc:

