

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

██████████

Claimant

Reg. No: 2010-5069

Issue No: 1038

Case No: ██████████

Load No: ██████████

Hearing Date:

March 10, 2010

Oakland County DHS

ADMINISTRATIVE LAW JUDGE: Jonathan W. Owens

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, a hearing was held on March 10, 2010. Claimant appeared and testified.

ISSUE

Did the Department of Human Services (Department) properly sanction Claimant's Family Independence Program (FIP) case for JET noncompliance?

FINDINGS OF FACT

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

1. On September 25, 2009, a TRIAGE for failure to meet required hours was held. The Department determined no good cause and Claimant agreed to return to programming.
2. On September 28, 2009, Claimant did go back into the program.

3. On October 2, 2009, the Claimant located and started a new job working in a thrift store.
4. On October 3, 2009, the Claimant was terminated from the job for poor performance and tardiness.
5. On October 7, 2009, the case manager notified the Department about the Claimant being terminated and indicated that the Claimant was told to return to the program the next day.
6. On October 8, 2009, the Claimant failed to return to programming. Instead, the Claimant was at another agency requesting help from THAW for a shut off. The Claimant provided documentation indicating she did in fact attend an appointment on October 8, 2009 at 2:30pm.
7. On October 21, 2009, a TRIAGE was held regarding the termination of employment. The Claimant indicated she was not told why she was terminated. The Claimant was given an employment verification to return to DHS regarding employment.
8. On October 23, 2009, the Department received the completed employment verification which indicated the Claimant was terminated for poor performance and tardiness.

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), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

Relevant policy section BEM 233A, p. 1:

NONCOMPLIANCE WITH EMPLOYMENT AND/OR SELF-SUFFICIENCY-RELATED ACTIVITIES

As a condition of eligibility, all WEIs and non-WEIs must work or engage in employment and/or self-sufficiency-related activities. **Noncompliance** of applicants, recipients, or member adds means doing **any** of the following **without** good cause:

Failing or refusing to:

- Appear and participate with the Jobs, Education and Training (JET) Program or other employment service provider.
- Complete a Family Automated Screening Tool (FAST), as assigned as the first step in the FSSP process.
- Develop a Family Self-Sufficiency Plan (FSSP) or a Personal Responsibility Plan and Family Contract (PRPFC).
- Comply with activities assigned to on the Family Self Sufficiency Plan (FSSP) or PRPFC.
- Appear for a scheduled appointment or meeting.
- Participate in employment and/or self-sufficiency-related activities.
- Accept a job referral.
- Complete a job application.
- Appear for a job interview (see the exception below).
- Stating orally or in writing a definite intent not to comply with program requirements.
- Threatening, physically abusing or otherwise behaving disruptively toward anyone conducting or participating in an employment and/ or self-sufficiency-related activity.

- Refusing employment support services if the refusal prevents participation in an employment and/or self sufficiency-related activity.

In the present case, the Claimant's FIP case was sanctioned for being terminated from employment. The Claimant found the job and applied for the job on her own. The Claimant testified she was unable to perform the duties of the position due to her back condition. The Claimant testified that she did attempt to work the position but the required work was too much for her. The Claimant further indicated she was not tardy and, in fact, she was unable to clock in on time due to the line of employees checking in at the same time.

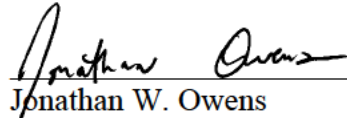
In this case, the Department asserts the Claimant had no good cause for being fired. The documentation supplied by the employer, not only documents poor performance, but also tardiness as the reason for firing. Even if this Administrative Law Judge (ALJ) were to disregard the poor performance as a reason for firing, the Claimant still failed to be timely according to the employer. This ALJ finds it unlikely an employer would, in fact, terminate an employee for being tardy simply based upon the delay in clocking in due to the number of employees clocking in for the day. Obviously, the employer found the Claimant's tardiness to be an issue since they state that as the fact for firing.

This ALJ finds the Department followed policy and correctly determined the Claimant failed to have good cause for being terminated from her employment. Therefore, the Department properly sanctioned the Claimant's FIP case for failure to comply with JET program.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department of Human Services was acting in compliance with Department policy when it sanctioned the Claimant's FIP application.

Accordingly, the Department's decision is AFFIRMED.



Jonathan W. Owens
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 04/05/10

Date Mailed: 04/05/10

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.

JWO/dj

cc:

