

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.: 20106311

Issue No.: 1021

Case No.:

Load No.:

Hearing Date:

March 11, 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, a telephone hearing was conducted from Detroit, Michigan on March 11, 2010. The Claimant appeared and testified. [REDACTED] FIS, appeared on behalf of the Department.

ISSUE

Whether the Department properly closed Claimant's Family Independence Program ("FIP") benefits effective November 11, 2009 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. Claimant attended a triage on 8/20/09 and the Department found that there was good cause for any noncompliance. (Exhibit 1, p. 8).

3. Yet, the Department required Claimant to sign a personal contract agreeing to return to JET and complete ten full days of Work First. (Exhibit 1, p. 6). The Department further notified Claimant that she had received her first noncompliance. (Exhibit 1, p. 7).
4. Claimant returned to JET. Claimant testified that she appeared at JET to turn in her paperwork on 8/27/09 and there was a birthday party occurring at the JET office so her paperwork was refused.
5. The Department indicated that Claimant appeared after hours and was, therefore, absent on that day. (Exhibit 1, p. 5).
6. A triage was scheduled for 9/24/09; Claimant did not appear. Therefore, the Department notified Claimant that this was her second incidence of noncompliance. (Exhibit 1, p. 4).
7. Claimant's FIP benefits were terminated effective 11/1/09 due to noncompliance.
8. On November 3, 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.

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. If it is determined during triage that the client has good cause, and good cause issues have been resolved, the Department is instructed to send the client back to JET. BEM 233A, p. 4. On the other hand, if a triage is held and the decision regarding the noncompliance is *No Good Cause*, the Department is instructed to provide a DHS-754, First Noncompliance Letter, regarding sanctions that will be imposed if the client continues to be

noncompliant. BEM 233, p. 8. A client's participation in an unpaid work activity may be interrupted by occasional illness or unavoidable event. A client's absence may be excused up to 16 hours in a month but no more than 80 hours in a 12-month period. BEM 230A, p. 22.

In the present case, it is undisputed that the Department found good cause for Claimant's noncompliance at the August 20, 2009 triage. Since good cause was found, the result is that Claimant was compliant with JET prior to that date. Therefore, the issuance of the first noncompliance letter was improper. If no good cause had been found, then the Department would have been proper in issuing a first noncompliance letter. As it stands, Claimant returned to JET on 8/24/09 with no negative actions on her record due to the finding of good cause.

Furthermore, since Claimant returned to JET with good cause for her previous absences, her subsequent absence was within the 16 hours allowable unexcused absences for that month. The Department terminated Claimant's FIP benefits in error. Accordingly, based upon the foregoing facts and relevant law, it is found that the Department's determination is REVERSED.

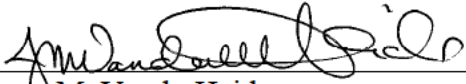
DECISION AND ORDER

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

Accordingly, it is Ordered:

1. The Department's termination of Claimant's FIP benefits effective 11/1/09 is REVERSED.
2. The Department's negative actions from the 8/20/09 and 9/24/09 triages for noncompliance shall be deleted.

3. The Department shall reopen Claimant's FIP case from the date of closure, 11/1/09 and supplement the Claimant with any lost benefits she was otherwise entitled to receive.

/s/ 

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

Date Signed: March 31, 2010

Date Mailed: March 31, 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 60 days of the filing of the original request.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt 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:

