

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.: 2010-20275
Issue No.: 1038
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
April 1, 2010
Wayne County DHS (17)

ADMINISTRATIVE LAW JUDGE: Colleen M. Mamelka

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 a hearing. After due notice, a hearing was held in Detroit, Michigan on Thursday, April 01, 2010. The Claimant appeared and testified along with [REDACTED]. The Claimant was represented by [REDACTED] of [REDACTED]. [REDACTED] and [REDACTED] appeared on behalf of the Department.

ISSUE

Whether the Department properly terminated the Claimant's FIP benefits due to non-compliance with the Jobs, Education, and Training ("JET") program?

FINDINGS OF FACT

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

1. The Claimant is a FIP recipient.
2. On November 9, 2009, a triage was requested regarding the Claimant's spouse's JET non-compliance. (Exhibit 3, p. 2)

3. On December 8, 2009, a triage was held however good cause was not found for the non-compliance. (Exhibit 1)
4. The Claimant's family was required to move temporarily from their home due to Lead Abatement Activity. (Exhibit 6)
5. Since this was the first JET non-compliance, the Claimant's spouse agreed to complete a total of 40 hours of job search activities during the period of December 14th through December 31, 2009. (Exhibits 1, 2)
6. The Claimant's spouse failed to comply as agreed offering the same reasoning as stated during the triage. (Exhibit 3, p. 1)
7. On January 9, 2010, the Department sent a Notice of Case Action to the Claimant informing her that the FIP benefits were scheduled for closure effective February 2010. (Exhibit 4)
8. On January 19, 2010, the Department received the Claimant's request for hearing, protesting the negative action. (Exhibit 5)
9. The Claimant's FIP benefits terminated.

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"), 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 Program

Administrative Manual (“PAM”), the Program Eligibility Manual (“PEM”), and the Program Reference Manual (“PRM”).

DHS requires clients to participate in employment and self-sufficiency related activities and to accept employment when offered. PEM 233A As a condition of eligibility, all WEIs must engage in employment and/or self-sufficiency related activities. PEM 233A The WEI is considered non-compliant for failing or refusing to appear and participate with the Jobs, Education, and Training Program (“JET”) or other employment service provider. PEM 233A 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. PEM 233A Failure to comply without good cause results in FIP closure. PEM 233A The first and second occurrences of non-compliance results in a 3 month FIP closure. PEM 233A The third occurrence results in a 12 month sanction. PEM 233A

JET participants will not be terminated from a JET program without first scheduling a triage meeting with the client to jointly discuss noncompliance and good cause. PEM 233A When good cause is not established for the non-compliance, the DHS-754, First Noncompliance Letter, is discussed regarding the imposition of sanctions if the client continues non-compliance. PEM 233A The client is offered an opportunity to comply with the FSSP by the due date on the DHS-754 and within the negative action period. PEM 233A Although a client agrees to comply, the instance of non-compliance is excused but remains on the client’s record even if the client complies. PEM 233A The opportunity to comply is offered one time for each case for the first non-compliant member when there is no good cause. PEM 233A

In the record presented, the Claimant’s spouse was required to participate in the JET program. In November 2009, the Claimant was referred for triage due to the spouse’s non-

compliance. During this time, the Claimant's family was required to move to temporary housing due to lead abatement issues within the permanent dwelling. On December 8, 2009, a triage was held which resulted in a no good cause determination. Since this was the first non-compliance, the spouse was given an opportunity to come into compliance. The Claimant's spouse agreed to participate despite the lead abatement issue. As a result, the Department had the Claimant sign a statement that provided:

“It was my chose (sic) to go to work force (sic) & do all hours”

During the hearing, the Claimant's spouse acknowledged the statement but denied he wrote “& do all hours” however later in the hearing, the Claimant denied writing the statement, instead just acknowledging he signed the statement. Conversely, the Department's testimony, which was straightforward and credible, provided that the statement was written in its entirety by the Claimant's spouse. The Claimant testified that she left voicemail messages with the caseworker regarding the Claimant's inabilities to participate which were not returned. The caseworker acknowledged that she was on vacation during the period of non-compliance. Regardless, the Claimant's “second” non-compliance was due to the exact same reason provided for during the triage in which the spouse had agreed would not be a barrier for participation. As a result, the Department pended the Claimant's FIP benefits for closure. Ultimately, under the facts presented, it is found that the Department established it acted in accordance with department policy when it terminated the Claimant's FIP benefits for failing to fully comply with the JET requirements as agreed. 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 that the Department acted in accordance with department policy when it terminated the Claimant's FIP benefits.

Accordingly, it is ORDERED:

1. The Department's termination of the Claimant's FIP benefits effective February 2010 is AFFIRMED.
2. The 3-month FIP sanction is imposed in accordance with department policy.

Colleen M. Mamelka

Colleen M. Mamelka
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 4/8/2010

Date Mailed: 4/8/2010

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.

CMM/jlg

cc:

