

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.: 201021211

Issue No.: 1019

Case No.: [REDACTED]

Load No.: [REDACTED]

Hearing Date:

May 3, 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 May 3, 2010. The Claimant appeared and testified. [REDACTED] FIM and [REDACTED] Case Manager, appeared on behalf of the Department.

ISSUE

Whether the Department properly issued a negative action and terminated Claimant's Family Independence Program ("FIP") benefits effective 2/1/10 for noncompliance with Work First?

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 applied for FIP and Child Development Care (“CDC”) benefits and was referred to Work First.
2. Claimant never heard any response from the Department on her CDC benefit application.
3. Claimant attended Work First in June and July of 2009 while Claimant’s mother (who was not working) watched Claimant’s one year old child.
4. Claimant stopped attending Work First when her mother returned to work.
5. Work First contacted Claimant on November 5, 2009 to re-establish participation. Claimant testified that she appeared to discuss her situation with her baby in tow and was told that she would need to come back to discuss at another time without the child.
6. Claimant testified that she never received any information about the CDC benefits and was never contacted by the Department regarding another appointment.
7. There was no JET representative testimony at the hearing.
8. A notice of noncompliance was issued on 12/16/09 which scheduled a triage date for 12/22/09. (Exhibit 1, p. 2).
9. Claimant did not attend the scheduled triage.
10. The Department terminated FIP benefits effective 2/1/10.
11. On February 11, 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 having an immediate family member with an illness or injury that requires in-home care by the client. Id. It also includes lack of child care that is appropriate, suitable, affordable or within reasonable distance of the client's home or work site. BEM 230B, p. 8. The care must be appropriate to the child's age, disabilities and other conditions. Id. If the client is unable to obtain child care that meets the conditions within 10 days, the Department should disregard the client until the next redetermination, the child turns age six, or until appropriate care is available, whichever is sooner. BEM 230A, p. 12. The penalty for noncompliance without good cause is FIP closure. BEM 233A at 6. If good cause is established the negative action is to be deleted. Id. at 12.

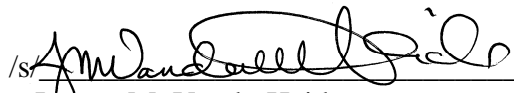
In this case, the Claimant provided credible testimony that she was having an issue with child care for her one year old child. Claimant was able to attend Work First for a period of time while her mother was available to watch the baby, but once her mother went back to work, Claimant was once again without suitable childcare. The undersigned finds that Claimant has shown good cause that she was incapable of attending Work First due to lack of child care. 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 not upheld.

Accordingly, it is Ordered:

1. Any negative action for noncompliance associated with the 2/1/10 FIP closure shall be deleted.
2. The Department shall reopen the Claimant's FIP case from the date of closure, 2/1/10 and supplement the Claimant with any lost benefits she was otherwise entitled to receive.
3. The Department shall process Claimant's application for CDC benefits before requiring her to return to Work First.

/s/ 

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

Date Signed: May 13, 2010

Date Mailed: May 13, 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:

