

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: 20102496
Issue No: 1021
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
January 13, 2009
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 January 13, 2010. The Claimant appeared. Dakota Ray-Clemons, FIS and Brenda Sage, FIM, appeared on behalf of the Department.

ISSUE

Whether the Department properly closed Claimant's FIP case for noncompliance with JET?

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.
2. Claimant was referred to the JET program most recently on 7/27/09.

3. Claimant was sick on 8/4/09 – 8/5/09. A triage was scheduled on 9/8/09 which Claimant attended. Claimant presented medical documentation of her illness and the Department found good cause for missing Work First. (Exhibit A-4).
4. Claimant was scheduled to report to JET again on 9/15/09.
5. Claimant testified that she reported to JET on 9/15/09 and missed her daughter's first day of preschool as a result. Claimant testified that that the JET logs will show that she signed in on 9/15/09.
6. The JET case notes indicate that Claimant was a no show on 9/15/09. (Exhibit A-3). The Work First caseworker was not present at the hearing to testify.
7. As a result of the JET case notes, Claimant's case was placed into negative action on 9/28/09. No triage was scheduled.
8. Claimant's benefits were terminated effective 11/1/09.
9. On October 5, 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 Program Administrative Manual (PAM)/Bridges Administrative Manual (BAM), the Program Eligibility Manual (PEM)/Bridges Eligibility Manual (BEM) and the Program Reference Manual (PRM).

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 when the client has a debilitating illness or injury or when an immediate family member's illness or injury requires in-home care by the client. Id. Good Cause also includes when the client has requested transportation services from DHS, the MWA, or other employment services provider prior to case closure and reasonably priced transportation is not available to the client. BEM 233A at p. 5. The penalty for noncompliance without good cause is FIP closure. Id. at 6. If good cause is established the negative action is to be deleted. Id. at 12.

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. The Department must determine good cause based on the best information available during the triage and prior to the negative action date. Good cause may be verified by information already on file with DHS or MWA. Good cause must be considered even if the client does not attend. BEM 233A at 7.

In this case, the Department failed to hold a triage or determine good cause for the 9/15/09 incident. There is clearly a question of fact as to whether Claimant had good cause. Claimant indicates that she appeared at JET on 9/15/09. Claimant also testified that she was

compliant with Work First requirements until her kids went back to school and afterwards, she needed additional time to navigate the bus system between her home, the schools and the Work First site. The Department is under the impression that a triage and good cause determination is needed only once – yet there is nothing in the regulations to support this. JET participants will *not be terminated without first having a triage to discuss noncompliance and good cause.* Id. (emphasis added). The facts surrounding the 9/15/09 incident are completely different than the facts from August, 2009. Furthermore, since good cause was shown for the August, 2009 dates, they should not enter into the evaluation at all. To terminate Claimant without the triage and good cause determination deprives Claimant of her due process rights.

Based upon the foregoing facts and relevant law, it is found that the Department's determination is REVERSED. This case shall be remanded to the Department to hold a triage and make a good cause determination. Claimant shall be provided with adequate (10 days) notice of the triage meeting in order to allow her to obtain the JET sign in logs for 9/15/09. Claimant's FIP benefits shall be reinstated from the date of closure through the date of triage. If good cause is shown for 9/15/09 the JET caseworker will work with Claimant's schedule taking her children's school schedule into consideration. If no good cause is found, Claimant is entitled to file a hearing request on the issue of good cause.

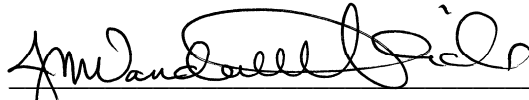
DECISION AND ORDER

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. The case is remanded to the local Department office for triage and good cause determination on the 9/15/09 noncompliance.

2. The Department shall reopen and reinstate Claimant's FIP case up through the date of the new triage.
3. The Department shall give Claimant ten (10) days notice of the triage date in order to allow Claimant to obtain verification that she attended JET on 9/15/09.
4. If good cause is found, the Department shall deleted any negative action and supplement the Claimant with any lost benefits she was otherwise entitled to receive.



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

Date Signed: 03/09/10

Date Mailed: 03/11/10

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.

JV/dj

cc:

