

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.: 201029152

Issue No.: 1021

Case No.: [REDACTED]

Load No.: [REDACTED]

Hearing Date:

May 12, 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 on March 26, 2010. After due notice, a telephone hearing was conducted on May 12, 2009 from Detroit, Michigan. The Claimant appeared and testified. [REDACTED] FIM, [REDACTED], FIS, [REDACTED] ES and [REDACTED] JET Coordinator appeared on behalf of the Department.

ISSUE

Whether the Department properly issued a negative action and closed Claimant's Family Independence Program ("FIP") benefits effective 4/1/10 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 was an active FIP recipient who was referred to JET.

2. The Update/View Case Notes indicate that Claimant has not met her Work First participation requirements since June of 2009. (Exhibit 3A).
3. Claimant was originally scheduled for triage on 9/8/09. At that time, Claimant signed a DHS 754 and agreed to return to JET. The Department asserted that Claimant did not return.
4. Claimant testified that she was attending Work First in September, 2009, but did not understand how to complete her paperwork on the computer. Claimant asserted that, because it was completed improperly, Work First would not accept her paperwork.
5. There was no representative from Work First present to testify at the hearing. The Department did not have any information regarding the underlying noncompliance other than what was contained in the Update/View Case notes.
6. Claimant testified that she was in special education classes from 6th -12th grade and has a low IQ.
7. A triage was scheduled for Claimant on February 24, 2010.
8. Claimant testified that she received the notice late because she moved out of her residence and was not receiving any forwarded mail.
9. Effective 4/1/10, Claimant's FIP case was closed for noncompliance.
10. On March 26, 2010, the Department received the Claimant's written hearing request protesting the FIP closure.

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. PEM 230A. All work eligible individuals who fail, without good cause, to participate in employment or self-sufficiency-related activities will be penalized. PEM 233A. Failure to appear at a JET program results in noncompliance. Id.

A number of FIP clients have disabilities or live with a spouse or child(ren) with disabilities that may need accommodations to participate in assigned activities. The needs of persons with disabilities are highly individual and must be considered on a case-by-case basis. DHS must make reasonable efforts to ensure that persons with disability-related needs or limitations will have an effective and meaningful opportunity to benefit from DHS programs and services to the same extent as persons without disabilities. BEM 230A, p. 2. Section 504 of the Americans with Disabilities Act defines a disability as a physical or mental impairment that substantially limits one or more major life activities; or a history of such an impairment; or being regarded as having such an impairment. Examples of major life activities include: thinking, learning, taking care of oneself, maintaining social relationships, sleeping, communicating, etc. BEM 230A, p. 2.

Efforts to accommodate persons with disabilities may include modifications to program requirements, or extra help. Failure to recognize and accommodate disabilities undermines efforts to assist families in achieving self-sufficiency. When a client requests reasonable accommodation in order to participate, DHS and the employment service providers will consider the need for applying the above requirements. Id. A disability as defined above that requires reasonable accommodation must be verified by an appropriate source, such as a doctor, psychologist, therapist, educator, etc. A client may disclose a disability at any time. Failure to disclose at an earlier time does not prevent the client from claiming a disability or requesting an accommodation in the future. BEM 230A, p. 2.

In the subject case, none of the four Department representatives in the hearing room were personally familiar with Claimant's Work First participation other than by referencing the Update/View Case Notes. Nor was there anyone one present from Work First to add testimony. The Update/View Case Notes do not provide information regarding the dates/times and/or work that Claimant was missing. The regulations specifically require that the Claimant be given an opportunity to show good cause for missing Work First. Given the evidence in this case, however, the Administrative Law Judge is unable to determine whether Claimant was actually not present or if she was unable to complete the assignments as she testified. Accordingly, the undersigned finds that the Department did not provide sufficient evidence to prove that the Claimant was noncompliant. Furthermore, it bears noting that a client is allowed to raise a disability and need for accommodation at any time and did so at the hearing.

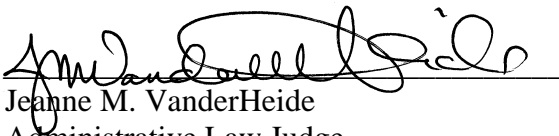
Based upon the foregoing facts and relevant law, it is found that the Department's determination to close Claimant's FIP benefits effective 4/1/10 is REVERSED.

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. The Department's negative action and case closure of 4/1/10 for noncompliance for missing Work First shall be deleted.
2. The Department shall reopen Claimant's FIP cases as of the date of closure, 4/1/10, and supplement the Claimant with any lost FIP benefits she was otherwise entitled to receive.
3. The Department is on notice that Claimant has raised a possible disability that requires accommodation and shall address Claimant's future Work First participation accordingly.

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

Date Signed: May 28, 2010

Date Mailed: May 28, 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/htw

cc:

