

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: 2010-30476

Issue No: 1012

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

June 9, 2010

Berrien County DHS

ADMINISTRATIVE LAW JUDGE: Landis Y. Lain

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon claimant's request for a hearing. After due notice, a telephone hearing was held on May 20, 2010. Claimant did appear for the hearing on time. Claimant left the hearing room before the start of the hearing stating that she was going to the restroom. Once the Administrative Law Judge went on the record, the caseworker looked for claimant at the beginning and at the end of hearing but claimant had left the building without telling anyone. This Administrative Law Judge called the claimant's telephone number and a person who answered the telephone indicated that claimant had gone to the store and would be back soon. This Administrative Law Judge notified her that she was supposed to be at her hearing and she had left the hearing. The person at the telephone number did not have any additional information. This Administrative Law Judge proceeded with the hearing because the department representatives were ready to proceed and because claimant had been present for the hearing.

ISSUE

Did the Department of Human Services (the department) properly propose to cancel claimant's Family Independence Program (FIP) benefits based upon its determination that claimant failed to participate in required JET activities?

FINDINGS OF FACT

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

- (1) Claimant was a Family Independence Program benefit recipient receiving \$ [REDACTED] per month.
- (2) Claimant was required to participate in JET activities as a condition of her receipt of FIP benefits.
- (3) The Office of Michigan Works sent claimant to Triage because she failed to participate in the required activity.
- (4) On March 31, 2010, claimant attended the Triage and no good cause was determined.
- (5) The department caseworker indicated that this was claimant's 3rd act of non compliance and her penalty months would be from May 1, 2010 through April 30, 2011.
- (6) The FIP would remain budgeted in the Food Assistance Program benefits and claimant would be removed from the Food Assistance Program group as there was no child under the age of 6.
- (7) On February 17, 2010, claimant failed to check into JET activities and did not turn in her job application form which meant that she missed the entire weeks worth of job search.

(8) On March 3, 2010, the claimant failed to check into her meeting and but she did turn in a doctor slip saying that she was seen by the doctor on March 3, 2010. She did not get a doctors excuse for the week before, but was only excused for the date of March 3, 2010. Claimant did not provide her job log which meant that she missed the entire weeks worth of job search.

(9) On March 10, 2010, claimant brought in the job log for March 3, 2010. However, the job log included to falsified logged places where claimant alleged that she filled out applications.

(10) On April 7, 2010, the department caseworker sent claimant notice that her FIP benefits would be cancelled effective April 21, 2010, based upon her failure to attend JET activities.

(11) On April 7, 2010, claimant filed a request for a hearing to contest the department's negative action and the negative action was deleted pending the hearing.

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) 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. The focus is to assist clients in removing barriers so

that they can participate in activities which lead to self-sufficiency. However, there are consequences for a claimant who refuses to participate without good cause. The goal of the FIP penalty policy is to obtain client compliance with appropriate work and/or self-sufficiency related assignments and to ensure that barriers to such compliance have been identified and removed. The goal is to bring the client into compliance. BEM, Item 233A, p. 1. Good cause for non-compliance is a valid reason for non-compliance with employment and/or self-sufficiency related activities and are based on facts that are beyond the control of the non-compliant person. A claim of good cause must be verified and documented for member adds and recipients.

Good cause includes the following:

- the person is working at least 40 hours per week on average and earning at least state minimum wage
- the client is physically or mentally unfit for the job or activity
- the client has a debilitating illness or injury or an immediate family member's illness or injury, requiring in-home care by the client
- the DHS, employment services provider, contractor, agency, or employer failed to make reasonable accommodations for the client's disability or client's needs related to disability
- the client requested child day care services from DHS prior to the case closure for non-compliance, and child day care is needed for CDC eligible child but none of the appropriate, suitable, affordable and within reasonable distance of client's home or work site.
- Client requested transportation services from DHS, the Michigan Works Association or other employment services provided prior to case closure and reasonably priced transportation is not available.

- The employment involves illegal activity
- The client experiences discrimination on the basis of age, race, disability, gender, color, national origin, religious beliefs, etc...
- Credible information indicates an unplanned event or factor which likely prevents or significantly interferes with employment and/or self-sufficiency related activities which are but not limited following:
 - Domestic violence
 - Health and safety risks
 - Religion
 - Homelessness
 - Jail
 - Hospitalization
- The client quits to assume employment comparable in salary and hours. The new hiring must occur before the quit.
- The total commute time exceeds 2 hours per day not including time to and from child care facilities or 3 hours per day including time to and from child care facilities'. BEM, Item 233A, pp. 4-5

The penalty for non-compliance without good cause is FIP closure. Effective

April 1, 2007. The following minimal penalties apply:

- For the 1st occurrence on the FIP case, close the FIP for not less than 3 calendar months unless the client is excused from the non-compliance.
- For the 2nd occurrence in the FIP case, close the FIP for not less than 3 calendar months
- For the 3rd and subsequent occurrence in the FIP case, close the FIP for not less than 12 calendar months.

In the instant case, this is claimant's 3rd event of non-compliance. Claimant has no good cause for non-compliance from October 27, 2008, December 16, 2008, May 27, 2009, and March 3, 2010. The 12th month sanction is applicable in this case.

The department indicated that claimant stated at her Triage that she didn't comment but stated that she did turn in her job log.

This Administrative Law Judge admitted the exhibits on the record and the department indicated that claimant's non-compliance was that she stated on her job log that she applied at [REDACTED] on March 31, 2010, however, [REDACTED] closed on January 13, 2010. In addition, claimant also stated on her Michigan Works JET job search job readiness log that she applied at [REDACTED] which has been closed for approximately 3 years. Claimant also did not complete her key train career skills report. She was supposed to do 40 hours of on-line training and only did 1.5 hours of on-line training in the requisite amount of time. (Exhibit D9)

The department has established by the necessary competent, material and substantial evidence on the record that it was acting in compliance with department policy when it proposed to cancel claimant's FIP benefits and institute a 1 year sanction based upon claimant's failure to comply with JET activities.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department has established that claimant failed to attend and fully participate in required JET activities. Claimant also arrived on time for the hearing and then decided that she didn't want to stay for the hearing and left the hearings room and was unable to be located for the hearing. Claimant has not established good cause for her failure to participate in JET activities. Claimant has not established good cause for her failure to attend the hearing.

Accordingly, the department's decision is AFFIRMED. The department shall institute claimant's sanction for FIP benefits.

/s/
Landis Y. Lain
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: June 28, 2010

Date Mailed: June 29, 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

LYL/alc

cc: 