

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No: 2010-31908
Issue No: 1038
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
July 1, 2010
Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Jonathan W. Owens

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 hearing was held on July 1, 2010. Claimant appeared and testified. The Claimant was represented by her attorney. The Department was present as well as representatives from the Work First program.

ISSUE

Did the Department of Human Services (Department) properly sanction Claimant's Family Independence Program (FIP) for failure to complete the required attendance/hours for the Work First program?

FINDINGS OF FACT

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

1. On February 17, 2010, the Claimant appeared for a triage. The Claimant stated she did not have poor attendance until her attorney instructed her to not attend.
2. On February 18, 2010, the sanction was placed on Claimant's case.
3. The Claimant filed a hearing request on March 2, 2010.

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 (BAM), the Program Eligibility Manual (BEM) and the Program Reference Manual (PRM).

Relevant policy section BEM 233A, p. 1:

FIP

DHS requires clients to participate in employment-related activities and to accept employment when offered. Our focus is to assist clients in removing barriers so they can participate in activities which lead to self-sufficiency. However, there are consequences for a client who refuses to participate in employment-related activities or refuses to accept employment, without good cause.

A mandatory participant who fails, without good cause, to participate in an employment-related activity, must be penalized.

Noncompliance for mandatory applicants, recipients, or member adds means doing **any** of the following **without** good cause:

Failing or refusing to:

- Appear for a scheduled appointment or meeting as required by the Michigan Works! Agency (MWA) or other contractor.
- Participate in employment-related activities required by the MWA or other contractor.
- Accept a job referral as required by the MWA or other contractor.
- Complete a job application as required by the MWA or other contractor.
- Appear for a job interview as required by the MWA or other contractor (see the exception below).
- Stating orally or in writing a definite intent not to comply with program requirements.

- Threatening, physically abusing or otherwise behaving disruptively toward anyone conducting or participating in an employment-related activity.
- Refusing employment support services if the refusal prevents participation in an employment-related activity.
- Refusing suitable employment. Refusing suitable employment means doing **any** of the following:
 - Refusing a bona fide offer of employment or additional hours up to 40 hours per week. A bona fide offer of employment means a definite offer paying wages of at least the applicable federal or state minimum wage. The employment may be on a shift; full or part time up to 40 hours per week; and temporary, seasonal or permanent.

In the present case, the Claimant was sanctioned for failure to complete the required hours of participation. According to the Claimant, she was working for the [REDACTED] 20-30 hours a month for \$240. These hours, according to the Department, are not counted towards the Claimant's required participation hours since she is paid less than minimum wage. The total hours per week that could be given to the Claimant would be 7.5 hours. The Department and the Work First staff indicated the Claimant is required to have in any combination hours of work and/or participation hours with Work First equaling a minimum of 30 hours a week. The JET program documents indicate the Claimant had an ongoing issue with achieving the required hours of participation.

The Department presented the following accounting of hours for the Claimant by week.

Week Begin Date	TOTAL
[REDACTED]	20
[REDACTED]	7
[REDACTED]	7
[REDACTED]	5
[REDACTED]	0
TOTAL	39

See Department Exhibit A page 1.

Even giving the Claimant's full credit for each week she worked for the [REDACTED], the Claimant would still have less than 30 hours for each of the above weeks listed. The closest week she would come to meeting the required hours would be [REDACTED]. The Claimant, at hearing, presented additional work logs for consideration. These logs were all original documents and were not signed by Work First. The Work First staff

testified they never return original documents and only give participants copies of the logs submitted. The Work First staff testified there records only support the hours of participation as indicated above. This Administrative Law Judge finds the testimony of the Work First staff more credible.

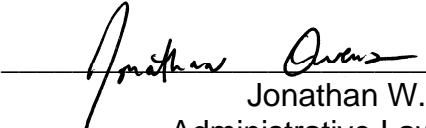
The Claimant also asserts she had started employment, and, by the second week after training was over, she had already been triaged. The Claimant may have started employment as she indicated in her hearing request and in her testimony at hearing; however, the Claimant was triaged on February 17, 2010, which indicates her participation hours, as outlined, were already an issue prior to her securing employment. The Claimant failed to meet the required hours of participation from the week of [REDACTED]. The subsequent attainment of employment fails to justify missing participation hours for the weeks prior to employment.

The only question before this Administrative Law Judge is whether the Claimant complied with the required hours. The documentation provided by the Department supports a finding that the Claimant was not in compliance with the required hours of participation and the Department properly sanctioned the Claimant's FIP case.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department of Human Services was acting in compliance with Department policy.

Accordingly, the Department's decision is AFFIRMED.


Jonathan W. Owens
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 07/28/10

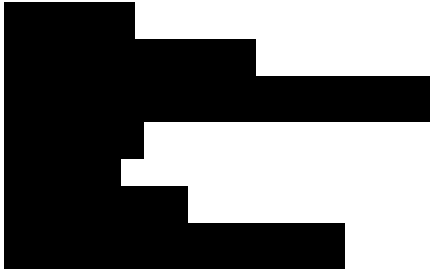
Date Mailed: 07/28/10

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 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.

JWO/dj

cc:

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