

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: 2010-32699

Issue No: 1012

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

June 15, 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 June 15, 2010. Claimant personally appeared and testified.

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 mandatory work first 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 recipient.
- (2) Claimant is a mandatory Work First participant.
- (3) On April 6, 2010, department caseworker received notice of triage from the Work

First worker dated March 30, 2010.

(4) On April 15, 2010, a DHS-2444, notice of non-compliance was mailed to the claimant scheduling her for a Triage to be held on April 21, 2010.

(5) The claimant did not attend the Triage.

(6) The claimant did call the worker to tell her that she was unable to attend the Triage appointment and wanted to explain what had happened and stated that she would be requesting a hearing.

(7) On April 15, 2010, the department caseworker sent claimant notice that her Family Independence Program benefits would be cancelled effective May 3, 2010.

(8) On April 23, 2010, claimant filed a request for a hearing to contest the department's negative action.

(9) A pre-hearing conference was scheduled for April 29, 2010.

(10) The department sent claimant notice that the pre-hearing conference on April 26, 2010, in the mail.

(11) Work First workers were in attendance for the pre-hearing conference so that a Triage could be conducted during the pre-hearing conference.

(12) The claimant did not show for the pre-hearing conference.

(13) Claimant's first act of non-compliance was July 2, 2007. The claimant was scheduled for Triage on July 19, 2007. No good cause was found and the compliance test was offered and accepted. The compliance test began July 23, 2007, and the claimant successfully completed the compliance test for Work First at that time.

(14) The claimant 2<sup>nd</sup> act of non-compliance was December 10, 2007. Her Triage appointment was set up for December 26, 2007. No good cause for failure to participate in Work

First activities was found and the case was closed for 3 months February, March and April of 2008.

(15) This case is the claimant's 3<sup>rd</sup> act of non-compliance which will require the case to be closed for 12 months, however, the negative action was deleted based upon the 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 (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).

BEM, Item 233A, indicates that the Family Independence Program (FIP) is the temporary cash assistance to support a family's movement to self-sufficiency. The recipients of FIP must engage in employment of self-sufficiency related activities so they can become self-supporting.

DHS requires claimant's to participate in employment and self-sufficiency related activities and to accept employment when offered. The focus is to assist claimants in removing barriers so they can participate in activities which lead to self-sufficiency. However, there are consequences for a claimant who refuses to participate without good cause. BEM, Item 233A, p. 1. A work eligible individual who fails without good cause to participate in employment or self-sufficiency related activities must be penalized. Depending upon the case situation, penalties include the following:

- Delay in eligibility application
- penalty • Ineligibility, denial or termination of FIP with no minimum period
- 233A, • Case closure for a minimum of 3 or 12 months. BEM, Item p. 1.

In the instant case, Work First employees indicate that claimant missed work on February 6, February 10, February 15, February 16, February 20, February 23, February 27, March 1, March 9, March 13, March 16, March 22, and March 27. Claimant was fired on March 30, 2010. The department caseworker and the Work First worker indicated that none of the absences were excuse and that two missed assignments are supposed to be brought to Triage, but claimant missed approximately 13 days. Claimant was fired for non-attendance as well as violation of confidentiality agreements and alleged theft from the shelter.

A Triage was set up for April 29, 2010. Claimant did not attend the Triage and no Triage was conducted over the telephone, but there was a pre-hearing conference set up so that claimant could come in and tell her story and claimant did file a request for a hearing.

Good cause is a valid reason for non-compliance with employment and/or self-sufficiency related activities and are based on factors 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 members 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 clients disability or clients 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 need for CDC eligible child but none of the appropriate, suitable, affordable and within reasonable distance of clients 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 information in the record indicates that claimant missed a Triage on April 21, 2010, because she missed dial-a-ride and then requested a hearing over the phone. The department caseworker sent claimant a notice for pre-hearing conference on April 26, 2010, which scheduled the pre-hearing conference for April 29, 2010. Claimant was a no call/no show at the pre-hearing conference and did not testify on the record that she did not receive notice of the pre-hearing conference. There was no offer to conduct a Triage over the telephone, however, claimant did have two opportunities in which to conduct her Triage.

Claimant testified that she attended all of Work First and did not miss the days that the department alleged that she missed. Claimant testified that she was late sometimes because she had to go and check in with her probation officer and she always let the department know when she was going to be late or when she needed to leave early. However, there is no information contained in the file beside bald testimony that she was in compliance with Work First. The department caseworker and the Work First workers indicate that claimant was absent many times from her job before she was finally fired from her job and terminated from the program.

This Administrative Law Judge finds that 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 Family Independence Program benefits and impose a 12 month penalty based upon the fact that this is claimant's 3<sup>rd</sup> failure to attend mandatory Work First activities.



2010-32699/LYL

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:

