

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: 2010-35908
Issue No: 1035; 3008
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
August 18, 2010
Allegan County DHS

ADMINISTRATIVE LAW JUDGE: Jay W. Sexton

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, an EXPEDITED in-person hearing was held on August 18, 2010, in Allegan. Claimant personally appeared and testified under oath.

The department was represented by Marvin Duell (Program Manager), and Heather Giles (JET Case Manager), Kristin Scott (Case Manager) appeared by telephone from Grand Rapids.

ISSUE

Did the department correctly sanction claimant's FIP and FAP cases on May 13, 2010 due to claimant's third Work First noncompliance (unauthorized use of a Work First computer) on May 3, 2010?

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 is a current FIP and FAP recipient with a household size of six.

Claimant's FIP grant is currently \$828 per month; claimant's current FAP allotment is currently \$900 per month.

(2) All able-bodied FIP and FAP recipients are required to participate in Work First as a condition of ongoing eligibility, if they are not otherwise gainfully employed.

(3) In May 2010, claimant was not gainfully employed.

(4) On April 12, 2010, the JET caseworker assigned claimant to perform the following Work First activities:

- (a) Perform Job Search 40 hours each week;
- (b) Report to the Work First office three hours each week.

(5) On April 12, 2010, claimant signed a JET Client Agreement which states in pertinent part:

“Do not use the computers for non-Job Search activities--ever.”

(6) On May 3, 2010, claimant was in the Work First office. On that date, claimant used a Work First computer for the following unauthorized activities:

- (a) She looked up information on Section 8 housing;
- (b) She looked up information on “[REDACTED]”;
- (c) She looked up information on the “[REDACTED]” Website. None of these websites were job search related.

(7) On May 3, 2010, the JET worker placed claimant's FIP and FAP cases into negative action.

(8) On May 13, 2010, the caseworker mailed claimant a Notice of Noncompliance (DHS-2444) stating that claimant was in noncompliance with her Work First assignment on May 3, 2010 for the following reason: “No participation and required activity.”

(9) The negative action notice (DHS-2444) notified claimant that the JET caseworker had scheduled a Triage meeting to discuss claimant’s good cause reasons for noncompliance. The Triage meeting was scheduled for May 13, 2010.

(10) On May 13, 2010, claimant attended the Triage meeting with the JET caseworker. During the meeting, claimant admitted printing out coloring pages for her children. Claimant acknowledged that this was a violation of Work First rules.

(11) On May 13, 2010, the JET worker found that claimant did not have good cause for violating the strict Work First policy prohibiting the use of Work First computers for non-Work First activities.

(12) On May 13, 2010, claimant’s FIP and FAP cases were placed in closure status.

(13) On May 13, 2010, claimant requested a hearing. The proposed FIP and FAP sanctions were deleted pending the outcome of the hearing.

(14) Claimant thinks she should be excused from the May 3, 2010 computer violations because they were not substantial violations of Work First policy. Claimant also thinks that some of her unauthorized computer use was indirectly related to employment. Claimant emphasized that the [REDACTED] site was indirectly related to employment.

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).

The Food Assistance Program (FAP) (formerly known as the Food Stamp (FS) program) is established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations (CFR). The Department of Human Services (DHS or department) administers the FAP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3001-3015. Department policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

The following departmental policies outline the applicable employment requirements for FIP/FAP recipients who were assigned for Work First.

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 that 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. BEM/PEM 233A.

ALLEGAN COUNTY JET POLICY

The JET caseworker explained to claimant on several occasions that the Allegan County JET policy requires FIP/FAP participants to participate in the [REDACTED] program as a condition of ongoing eligibility for benefits. PEM/BEM 229, 230A, 233A and 233B. See also PEM/BEM 220.

The preponderance of the evidence in the record shows that the JET caseworker properly assigned claimant to attend Work First. Most recently, claimant was assigned to attend Work First on April 12, 2010. Claimant was previously sanctioned for Work First noncompliance on two prior occasions. During the Triage meeting with the JET worker on May 13, 2010, claimant admitted violating the strict Work First prohibition against using Work First computers for non-job search activities.

At the hearing, claimant argued that the computer violations were not material, and did not warrant a Work First sanction because some of the sites [REDACTED] were partially work-related.

Based on claimant's admission that she violated the Work First policy prohibiting the use of Work First computers for non-job search activities, the JET caseworker correctly decided to sanction claimant's FIP and MA cases on May 13, 2010.

After a careful review of the record, the Administrative Law Judge concludes there is no evidence of arbitrary or capricious action by the DHS JET worker in sanctioning claimant's FIP and FAP cases due to unauthorized use of Work First computers.

The record shows that the JET caseworker made several attempts to inform claimant that Work First computers were to be used only for Work First job search. During the hearing, claimant candidly admitted that she was aware of the Work First prohibition against using Work First computers for non-job search activities.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department correctly imposed a third Work First sanction due to claimant's improper use of Work First computers on May 3, 2010.

Accordingly, the department's action is hereby, AFFIRMED.

SO ORDERED.

/s/ _____
Jay W. Sexton
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: September 8, 2010

Date Mailed: September 9, 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 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.

JWS/tg

cc:

