

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

██████████

Claimant

Reg. No.: 2010 38173

Issue No.: 1021

Case No.: ██████████

Load No.: ██████████

Hearing Date:

July 1, 2010

Wayne County DHS (18)

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. After due notice, an telephone hearing was conducted from Detroit, Michigan on July 1, 2010. The Claimant appeared and testified. ██████████, FIM and ██████████, FIS appeared on behalf of the Department.

ISSUE

1. Whether the Department properly issued a negative action and closed Claimant's Family Independence Program ("FIP") benefits effective 6/1/10 for a failure to attend Work First?
2. Whether the Department properly reduced Claimant's Food Assistance Program ("FAP") benefits as a result of the FIP sanction effective 7/1/10?

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 and FAP recipient who was referred to JET.

2. The Department indicated that Claimant failed to attend JET on 5/5/10, 5/6/10, 5/7/10 and 5/11/10. (Exhibit 1, pp. -3).
3. On 5/19/10, the Department sent Claimant notice of noncompliance along with notice of a triage appointment on 5/25/10. (Exhibit 1, p. 4-6).
4. Claimant underwent a triage for noncompliance and the Department did not find good cause. Therefore, Claimant's FIP was terminated effective 6/1/10 and Claimant's FAP benefits were reduced to \$0 as a result of the FIP sanction. (Exhibit 1, p. 7-9).
5. Claimant testified that her mother was in the hospital for a week during the first week of May, 2010 and suffered a pulmonary embolism.
6. Claimant testified that following her mother's return from the hospital, Claimant (who was also working part time) was unable to participate in JET due to the care that her mother needed upon returning home.
7. Claimant has continued to care for her mother and is getting paid \$8.00 per hour, 3 hours per week by [REDACTED].
8. On June 3, 2010, the Department received the Claimant's written hearing request protesting the negative action, the closure of FIP benefits and the sanction of FAP benefits.

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. The Food Assistance Program, 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”), formally known as the Family Independence Agency, administers the FAP program pursuant to MCL 400.10, *et. seq.* and MAC R 400.3001-3015. 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. BEM 230A. All work eligible individuals who fail, without good cause, to participate in employment or self-sufficiency-related activities will be penalized. BEM 233A. Failure to appear at a JET program results in noncompliance. Id.

Good cause is a valid reason for noncompliance with employment and/or self-sufficiency related activities that are based on factors that are beyond the control of the noncompliant person. BEM 233A at 4. Good cause includes an unplanned event or factor which likely prevents or significantly interferes with employment and/or self-sufficiency-related activities. Id. The penalty for noncompliance without good cause is FIP closure. Id. at 6. If good cause is established the negative action is to be deleted. Id. at 12.

The Department is to disqualify a FAP group member for noncompliance when all the following exist:

- The client was active both FIP and FAP on the date of the FIP noncompliance, and

- The client did not comply with FIP/RAP employment requirements, and
- The client is subject to a penalty on the FIP/RAP program, and
- The client is not deferred from FAP work requirements
- The client did not have good cause for the noncompliance.

BEM 233B, p. 2.

In this case, the Claimant testified credibly that upon referral to JET, she was attending JET in the a.m., going to work for 2 hours at the school each lunch period and then returning to JET after work. Claimant testified that when her mother went into the hospital and then returned home on Coumadin following a pulmonary embolism, Claimant found it too hard to handle everything given the care required by her mother. The Administrative Law Judge finds that the Claimant has shown good cause that her mother's hospitalization was an unplanned event that significantly interfered with Claimant's ability to participate in self-sufficiency related activities.

Accordingly, based upon the foregoing facts and relevant law, it is found that the Department's determination is REVERSED.

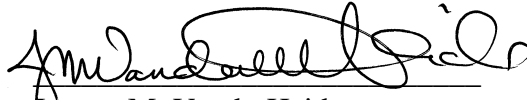
DECISION AND ORDER

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 for noncompliance, effective 6/1/10, shall be deleted.
2. The Department shall reopen Claimant's FIP and FAP cases, from the date of closure, and supplement the Claimant with any lost benefits she was otherwise entitled to receive.

3. The Department shall re-evaluate Claimant's obligation to participate in JET given Claimant's current work situation.



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

Date Signed: 07/12/2010

Date Mailed: 07/12/2010

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/cjp

cc:

