

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201041890
Issue No.: 1005
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: August 2, 2010
Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Aaron McClintic

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 a hearing. After due notice, a telephone hearing was held on August 2, 2010. The Claimant appeared and testified. [REDACTED], FIM and [REDACTED], FIS appeared on behalf of the Department.

ISSUE

Did the Department properly close Claimant's Family Independence Program ("FIP") benefits case for non-compliance with the Work First/Jobs Education and Training ("JET") program?

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 recipient of FIP benefits who was assigned to JET.
2. Claimant failed to participate with the Work First program and her case was referred to triage.
3. Notice of Noncompliance was sent to Claimant on May 3, 2010 with notice of a May 11, 2010 triage meeting.
4. On May 11, 2010 a triage meeting was held and the Department determined that Claimant was noncompliant and did not have good cause for noncompliance.

5. Claimant was referred back to the Work First program on May 17, 2010.
6. Claimant did not appear and her case was placed into closure.
7. On June 1, 2010 Claimant's FIP case closed and a 90 day sanction was imposed.
8. Claimant requested hearing on June 22, 2010 contesting the closure and sanction of FIP 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 (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 Dependant 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 Family Independence Program (FIP) provides temporary cash assistance to support a family's movement to self-sufficiency. The recipients of FIP engage in employment and self-sufficiency-related activities so they can become self-supporting. Federal and State laws require each work eligible individual (WEI) in the 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. These clients must participate in employment and/or self-sufficiency related activities to increase their employability and obtain stable employment. BEM 230A.

JET is a program administered by the Michigan Department of Labor and Economic Growth (DLEG) through the Michigan Works Agencies (MWAs). The JET program serves employers and job seekers for employers to have skilled workers and job seekers to obtain jobs that provide economic self-sufficiency. BEM 230 A. A mandatory participant in the JET program who fails without good cause to participate in employment activity must be penalized. BEM 233(a). The penalty for the first occurrence of noncompliance in the JET program is a closure for a minimum of three calendar months under the FIP program. BEM 233(a). Good cause is a valid reason for noncompliance with employment related activities. A claim of good cause must be verified and documented for applicants, members, and recipients. BEM Manual Item 230(a), BEM Manual Item 230(b); 7 CFR Parts 272 and 273.

Department policy addresses when a lack of child care can be deemed to be good cause for failing to participate with JET under specific parameters. No Child Care The client requested child day care services (CDC) from DHS, the MWA, or other employment services provider prior to case closure for noncompliance and CDC is needed for a CDC-eligible child, but none is appropriate, suitable, affordable and within reasonable distance of the client's home or work site. • **Appropriate.** The care is appropriate to the child's age, disabilities and other conditions. • **Reasonable distance.** The total commuting time to and from work and child care facilities does not exceed three hours per day. • **Suitable provider.** The provider meets applicable state and local standards. Also, providers (e.g., relatives) who are NOT registered/ licensed by the DHS Office of Child and Adult Services must meet DHS enrollment requirements for day care aides or relative care providers. See BEM 704. • **Affordable.** The child care is provided at the rate of payment or reimbursement offered by DHS. BEM 233A

In the present case, following a triage meeting on March 4, 2010 where Claimant was found to be in noncompliance without good cause, a ten day compliance test was put in place. Claimant admitted that she failed to appear at the Work First agency on a day she was required to during the ten day compliance test. Claimant testified that she was not able to make it to the Work First office because of a lack of child care. Claimant was instructed to have child care in place because of previous issues that had arisen. Claimant did not have a regular child care provider in place when this issue arose. Claimant did not request child care assistance from the Department. Claimant failed to meet the criteria for the lack of child care good cause exception delineated above. BEM 233A. Therefore the Department's determination that Claimant did not have good cause is proper and correct.

This Administrative Law Judge finds that Claimant refused to cooperate or failed to make a reasonable effort to participate with JET without good cause. Accordingly, the Department's closure of FIP benefits was proper.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law decides that the Department was correct in the closure of FIP benefits, and it is ORDERED that the Department's decision in this regard be and is hereby AFFIRMED.

/s/



Aaron McClintic
Administrative Law Judge
For Ismael Ahmed, Director
Department of Human Services

201041890/AM

Date Signed: August 5, 2010

Date Mailed: August 5, 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 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.

AM/hw

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