

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: 2010-42382
Issue No: 1012
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
August 12, 2010
Saginaw County DHS

ADMINISTRATIVE LAW JUDGE: Janice Spodarek

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 claimant's request for a hearing. After due notice, a telephone hearing was held on 8/12/2010.

ISSUE

Did the Department of Human Services (DHS) properly propose to sanction claimant's Family Independence Agency (FIP) on the grounds of Work First/JET noncompliance?

FINDINGS OF FACT

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

(1) The DHS submitted a hearing summary discussing claimant's noncompliance with employment related activities regarding exiting claimant from Work First/JET on 4/12/2010 due to failing to attend ETC orientation on 4/9/2010.

(2) Much of the hearing centered on claimant's noncompliance in April, 2010.

(3) Claimant argued that she was in the hospital during April, 2010 and was unable to attend. Claimant did not have verification. The record was held open in this case to give claimant an opportunity to obtain verification of hospitalization.

(4) On 5/20/10, claimant signed the First Noncompliance Letter (DHS-754) stipulating that she was in noncompliance prior to 5/26/10. A subsequent review of this evidence indicates that the April, 2010 noncompliance and/or verification is irrelevant.

(5) The Update/View Case Notes indicates that on 5/21/2010: “disregard CTC start date of 5/26/10; new referral had to be given to client because of termination date which was the result of incorrect deferral entered by DHS. New CTC start date will be 6/1/10 – client has been informed and acknowledges new date, new referral was mailed to client today.”

(6) Claimant was scheduled to attend on 6/2/2010 but claimant’s grandmother was not available to baby-sit one of her children. The department stipulated that claimant informed the department. Claimant understood she was excused on 6/2/2010 and 6/3/2010. The department determined that an emergency situation with claimant’s baby-sitter did not constitute good cause.

(7) On 6/3/2010 the DHS exited claimant due to attendance noncompliance.

(8) On 6/4/2010 the update/view case notes state: “ITT is being submitted due to failing CTC and being in noncompliance.”

(9) On 6/21/2010 claimant filed a timely hearing request. The department reinstated the action pending the outcome of the hearing.

CONCLUSIONS OF LAW

The Child Development and Care program is established by Titles IVA, IVE and XX of the Social Security Act, the Child Care and Development Block Grant of 1990, and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The program is implemented by Title 45 of the Code of Federal Regulations, Parts 98 and 99. The Department of Human Services (DHS or department) provides services to adults and children pursuant to MCL 400.14(1) and MAC R 400.5001-5015. Department policies are contained in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

Applicable policy and procedure to the case hearing is found in BEM Item 230A and 233A.

At the Administrative Hearing, there was much time spent on claimant's purported failure to comply in April, 2010. However, a subsequent review of the record by the undersigned Administrative Law Judge reveals that in fact, the April noncompliance was not at issue herein as the department's own notes states on 5/21/2010 that an incorrect deferral was entered by DHS and claimant had a new start date of 6/2/2010. Moreover, on 5/20/10 claimant signed a DHS-754-First Noncompliance Letter stipulating that she agreed and stipulated that she was in noncompliance without good cause. Thus, the issue as to good cause for initial noncompliance in April and/or any verification attached to this noncompliance is not relevant. The remaining issue centers on good cause for claimant's CTC test.

As noted in the Findings of Facts, claimant had her grandmother babysitting. Claimant's grandmother stopped babysitting and created an emergency childcare situation for claimant.

The department's response to claimant's emergency was that at the Administrative Hearing that claimant could have used DHS daycare. The department did not offer any policy, procedure, or law which requires claimant to use the DHS day care system.

After careful review of the substantial and credible evidence on the whole record, this ALJ finds that claimant's situation constitutes an emergency day care situation. This ALJ finds that it is excusable under general definitions of the JET/Work First policy. Thus, the department's proposed actions are reversed. This ALJ finds that claimant is to be given another opportunity for a compliance test. This ALJ upholds the department's initial determination of noncompliance but orders the department to give claimant another opportunity to do a compliance test.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the department's proposed actions were incorrect.

Accordingly, the department's proposed sanction of claimant's FIP case beginning 7/1/2010 was incorrect and is hereby REVERSED. The department is ORDERED to give claimant an opportunity to do another compliance test. It is SO ORDERED.

/s/

Janice Spodarek
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: September 14, 2010

Date Mailed: September 14, 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 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.

JS/vc

cc:

