

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: 2010-42548  
Issue No: 1035  
Case No: [REDACTED]  
Load No: [REDACTED]  
Hearing Date:  
August 17, 2010  
Saginaw 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 telephone hearing was held on August 17, 2010, in Saginaw. The claimant personally appeared and testified under oath.

The department was represented by Jennifer Hooverman (JET coordinator), Sue Walker (Triage worker) and Gary Feit (Deputy Director [REDACTED]).

ISSUE

Did the department correctly sanction claimant's FIP case (June 14, 2010) due to claimant's failure to complete her Work First ten-day consent to comply test (May 18, 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 and her minor child are former FIP recipients (house size equals two). Claimant's FIP grant was \$403.

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

(3) In order for self-employed persons to be excused from Work First, the self-employed person must have self-employment income equivalent to a 40-hour per week job, paying \$7.50 per hour.

(4) On April 23, 2010, claimant was dismissed from Work First for missed appointments.

(5) On May 7, 2010, the JET worker sent claimant a Notice of Noncompliance (DHS-2444). The notice contained a Triage appointment for May 18, 2010 at the DHS office.

(6) On May 18, 2010, claimant attended the Triage appointment with the JET worker. Claimant provided the following explanation for missing her Work First Appointments: She did not have a baby-sitter.

(7) On May 18, 2010, the JET worker decided that claimant's baby-sitter concerns were not good cause for claimant's failure to complete her Work First assignment. The JET worker noted that claimant has an open child day care case and claimant's approved provider has not billed for DHS for day care services since March 2010.

(8) Because this was claimant's first Work First noncompliance, the JET worker offered claimant the opportunity to complete a 10-day compliance test. Claimant accepted the JET worker's offer.

(9) Pursuant to the 10-day willingness to comply test, claimant was referred back to Work First for a May 26, 2010 appointment.

(10) On May 26, 2010, claimant attended a Work First appointment. Claimant told Work First that she had not obtained a [REDACTED] because she was working (as a baby-sitter for her sister).

(11) The Work First representative reminded claimant that she was not an authorized child day care provider by Work First; also, claimant was not authorized to work as a baby-sitter for her sister in place of her Work First assignment.

(12) The Work First representative instructed claimant to obtain a [REDACTED] [REDACTED] by May 27, 2010.

(13) Claimant did not contact her JET worker by May 27 and did not present an executed a [REDACTED], as required.

(14) Claimant did not keep her June 8, 2010 appointment with the JET worker to discuss her performance under the 10-day willingness to comply test. She told the JET worker that she was unable to attend the appointment because she did not have a baby-sitter.

(15) On June 8, 2010, the JET worker decided that claimant did not satisfy her 10-day willingness to comply test.

(16) On June 14, 2010, the JET worker sent claimant a Noncompliance Notice (DHS-1605).

(17) On June 14, 2010, the JET worker closed claimant's FIP case due to noncompliance with Work First.

(18) On July 1, 2010, claimant requested a hearing. Claimant's hearing request was not filed within the 10-day requirement. For this reason, the JET worker was unable to reopen claimant's FIP case pending the hearing on claimant's Work First noncompliance.

(19) Claimant is not eligible to meet her Work First requirement by providing day care to her sister.

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 following departmental policies outline the applicable employment requirements for FIP recipients assigned to 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. PEM/BEM 233A.

The record shows that the JET worker explained to claimant that the Saginaw County JET policy requires FIP recipients to participate in [REDACTED] as a condition of ongoing eligibility for benefits. PEM/BEM 229, 230A, 230B, 233A, and 233B. See also PEM/BEM 220.

The preponderance of the evidence in the record shows that the JET worker and claimant agreed to a 10-day willingness to comply test. Pursuant to the willingness to comply test, claimant was required to obtain a [REDACTED] with a local community service agency. The deadline for submitted the [REDACTED] was

May 26, 2010. Claimant did not submit the required [REDACTED] by May 26, 2010. She failed to meet with her JET worker to discuss her compliance with the willingness to comply test on May 26, 2010. Claimant did not have a good cause reason for her absence.

After a careful review of the record, the Administrative Law Judge concludes that there is no evidence of arbitrary or capricious actions by the JET worker in sanctioning claimant's FIP case. The record shows that the JET worker made reasonable attempts to accommodate claimant (gave her a 10-day willingness to comply test) and claimant failed to meet her requirements under the test.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department's Work First sanction (closure of FIP) is correct.

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 9, 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.

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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:

