

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: 2010-42698
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. Claimant personally appeared and testified under oath.

The department was represented by Sue Walker (Triage Worker), Jennifer Hooverman (JET Worker), and Gary Feit (Deputy Director of Work First).

ISSUE

Did the department correctly decide to sanction claimant's FIP (June 28, 2010) due to claimant's failure to complete her 10-day willingness to comply test?

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 four minor children are FIP recipients. Claimant currently received monthly FIP benefits of \$694.

(2) All adult able-bodied FIP recipients are required to participate in Work First as a condition 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) In February 2010, claimant was not gainfully employed.

(5) On February 19, 2010, the JET caseworker assigned claimant to participate in Work First.

(6) On April 23, 2010, claimant's Work First assignment was:

- (a) Find a community service work site;
- (b) Sign a community service contract;
- (c) Submit a community service contract to Work First by May 3, 2010.

(7) Claimant failed to complete the Work First assignment by May 3, 2010.

(8) Claimant was given extensions by Work First to complete her Work First assignment on May 5, May 12, and May 19, 2010.

(9) Claimant's Work First enrollment was terminated May 21, 2010 due to noncompliance. Claimant failed to find a community service worksite and failed to sign a community service contract.

(10) On May 28, 2010, the JET worker sent claimant a Notice of Noncompliance (DHS-2444) and also a notice of the June 9, 2010 Triage meeting.

(11) On June 9, 2010, the JET worker held a Triage meeting. Claimant did not attend the meeting and was not excused. The JET worker found that claimant's failure to attend the Triage meeting was not based on good cause.

(12) On June 9, 2010, the JET worker approved a 10-day compliance test for claimant. To satisfy the compliance test, claimant agreed to:

- (a) Start Work First on June 16, 2010;
- (b) Get a signed community service contract by June 16; and
- (c) Turn in a signed community service contract to Work First by June 16.
- (d) Attend the Triage meeting on June 23, 2010.

(13) Claimant did not attend her June 23, 2010 Triage meeting with the JET worker.

Also, claimant did not:

- (a) Submit her job search log;
- (b) Submit her school log;
- (c) Provide a good cause reason for her failure to comply with her Work First assignment.

(14) On June 28, 2010, the JET worker decided that claimant failed to comply with her 10-day compliance test.

(15) On June 28, 2010, the JET worker sent claimant a noncompliance notice.

(16) On July 6, 2010, claimant requested a hearing. Claimant's FIP benefits were continued pending the hearing.

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 outlined in 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 the [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 properly assigned claimant to attend Work First. Claimant's Work First assignment was:

- (a) Find a community work service worksite;
- (b) Sign a community service worksite contract; and
- (c) Submit a signed community service worksite contract To Work First by May 3, 2010.

The JET caseworker scheduled a Triage meeting to enable claimant to provide her good cause reason for noncompliance with her Work First assignment. However, claimant failed to attend the June 9, 2010 Triage meeting and failed to provide good cause reasons for noncompliance with her Work First assignment.

On June 29, the JET caseworker gave claimant a second chance: She approved claimant for a 10-day compliance test. Claimant agreed that she would satisfy the following 10-day compliance test requirements:

- (a) Claimant would begin Work First attendance on June 16, 2010;
- (b) Claimant would get a signed Community Service Work contract by June 16;
- (c) Claimant would turn in the signed community service contract to Work First by June 16;
- (d) Claimant would attend a Triage meeting with the JET worker on June 23, 2010.

Claimant did not attend her June 23, 2010 Triage meeting.

- (a) Also, claimant did not submit her job search log;
- (b) She did not submit her school logs; and
- (c) She did not provide a good cause reason for her Work First noncompliance.

On June 28, 2010, the JET caseworker decided that claimant did not complete her 10-day compliance test successfully.

On June 28, 2010 the JET caseworker sent claimant a noncompliance notice.

On July 6, 2010, claimant requested a hearing. Claimant's FIP benefits have continued pending the outcome of this hearing.

After a careful review of the record, the Administrative Law Judge concludes there is no evidence of arbitrary or capricious actions by the JET caseworker in sanctioning claimant's FIP case. The record shows that the JET caseworker approved a 10-day compliance test for claimant to give her a second chance to show that she could successfully complete her Work First requirement.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the JET worker correctly decided to sanction claimant's FIP case due to claimant's failure to meet her Work First requirements, as agreed.

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.

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:

[REDACTED]