

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: 2010 47821
Issue No: 1038/3015
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
November 23, 2010
Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Jonathan W. Owens

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, a hearing was held on November 23, 2010. Claimant appeared and testified.

ISSUE

Did the Department of Human Services (Department) properly sanction Claimant's Family Independence Program (FIP) for non-compliance with JET activities? Did the Department properly terminate Food Assistance Program benefits for failure to provide verifications requested regarding employment?

FINDINGS OF FACT

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

1. May 4, 2010, a TRIAGE was held and the Claimant agreed to return to JET and complete a compliance test.
2. On [REDACTED], the Claimant show up but failed to sign in until 10am. Based upon the sign-in log, it showed she signed in after 10am. Claimant admitted to not signing in until 10am.
3. [REDACTED], showed signed in for class section at 9am and signed at 11am but failed to sign out at 4pm.
4. [REDACTED], the Claimant left early but again had failed to sign in but she did leave early based upon a JET staff giving her permission to leave.

5. [REDACTED], Claimant went but left early due to family emergency.
6. [REDACTED], the Claimant informed the Department she had started working.
7. June 30, 2010, the Claimant's FAP case closed for failure to verify income, and her FIP was sanctioned for failure to complete compliance test.
8. August 5, 2010, the Claimant filed a hearing request.

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 Food Assistance Program (FAP)(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) administers the FAP program pursuant to MCL 400.10, et seq., and MAC R 400.3001-3015. Department policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

Relevant policy section BEM 233A, p. 1:

FIP

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 which 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.

A mandatory participant, who fails, without good cause, to participate in an employment-related activity, must be penalized.

Noncompliance for mandatory applicants, recipients, or member adds means doing **any** of the following **without** good cause:

Failing or refusing to:

- Appear for a scheduled appointment or meeting as required by the Michigan Works! Agency (MWA) or other contractor.
- Participate in employment-related activities required by the MWA or other contractor.
- Accept a job referral as required by the MWA or other contractor.
- Complete a job application as required by the MWA or other contractor.
- Appear for a job interview as required by the MWA or other contractor (see the exception below).
- Stating orally or in writing a definite intent not to comply with program requirements.
- Threatening, physically abusing or otherwise behaving disruptively toward anyone conducting or participating in an employment-related activity.
- Refusing employment support services if the refusal prevents participation in an employment-related activity.
- Refusing suitable employment. Refusing suitable employment means doing **any** of the following:
- Refusing a bona fide offer of employment or additional hours up to 40 hours per week. A bona fide offer of employment means a definite offer paying wages of at least the applicable federal or state minimum wage. The employment may be on a shift; full or part time up to 40 hours per week; and temporary, seasonal or permanent.

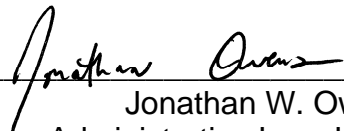
In the present case, the Claimant was sanctioned for failure to complete an agreed upon compliance test. The Claimant at a TRIAGE agreed to return to JET and complete a compliance test. The Claimant was to attend the next three sessions at JET and follow the rules of the JET program. At the hearing, the Claimant and the JET representative both agreed that on the first day of the compliance test, the Claimant signed in at or after 10am. The program requires participants to sign in at 9am. Therefore, the Claimant failed to fully comply with the compliance test and failed the first day. While this Administrative Law Judge may believe the Claimant was there before 9am, the rules for JET indicate the Claimant must sign in by 9am. The evidence and testimony given clearly establish she failed to comply with this portion of the JET rules and therefore was not given credit for attendance on May 5, 2010. Therefore, the Department correctly placed the Claimant's case in non-compliance.

On June 11, 2010, the Department sent a verification checklist to the Claimant regarding employment for determining child daycare (CDC) benefits. The verification sent to the Claimant simply stated "missing check stubs". The verification request failed to indicate what specific check stubs were required. The Department has the burden, when requesting verifications such as employment or shelter earnings or costs, to specify what specifically should be submitted and when the information is due. In this case, the verification request indicates a deadline for June 21, 2010, but fails to specify what check stubs the Department is seeking. Further, this was given to indicate why the Claimant's FAP benefits were ended. However, it should be noted, the checklist was sent for CDC not FAP and the record shows the Claimant started employment on June 17, 2010, after this request was sent out. The Claimant testified she had informed the Department of her employment on June 17, 2010. On July 9, 2010, the Claimant submitted a copy of her first paycheck. No other notice, showing the Department requested the employment information for use in the Claimant's FAP case, was provided. No other verification requests were provided to show the Department requested the information prior to July 9, 2010. Therefore, the Department improperly closed the Claimant's FAP case for failure to provide verification of income.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the following:

1. The Department correctly sanctioned the Claimant's FIP case for failure to comply with employment related activities; therefore, this decision is UPHELD.
2. The Department incorrectly closed the Claimant's FAP case for failure to verify income. Therefore, this decision is REVERSED, and the Department is ordered to re-open benefits and include income provided and supplement Claimant for any loss in FAP benefits.


Jonathan W. Owens
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 12/02/10

Date Mailed: 12/02/10

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.

JWO/dj

cc:

