

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.: 2010-649
Issue No.: 1038/3008
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
November 5, 2009
Macomb County DHS (20)

ADMINISTRATIVE LAW JUDGE: Michael J. Bennane

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9; MSA 16.409 and MCL 400.37; MSA 16.437 upon the Claimant's request for a hearing. After due notice, a telephone hearing was held on November 5, 2009. The Claimant personally appeared and testified.

ISSUE

Did the Department properly close the Claimant's Family Independence Program (FIP) and Food Assistance (FAP)?

FINDINGS OF FACT

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

1. The claimant was a FIP and FAP recipient and required to participate in work related activities.
2. On April 13, 2009 the claimant attended JET orientation.
3. On April 14, 15, and 16, 2009, the claimant was absent from JET.

4. On May 4, 2009, the department sent the claimant a notice of noncompliance with a triage scheduled for May 13, 2009.
5. On May 13, 2009, the department found no good cause for the claimant's absence from JET.
6. On May 16, 2009, the department closed the claimant's FIP and reduced her FAP.
7. On August 25, 2009, the claimant filed a request for a 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 (formerly known as the Family Independence Agency) 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 (formerly known as the Family Independence Agency) 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).

In the instant case, the Claimant failed to attend JET appointments and perform work related assignments.

**NONCOMPLIANCE WITH EMPLOYMENT AND/OR
SELF-SUFFICIENCY-RELATED ACTIVITIES**

As a condition of eligibility, all WEIs and non-WEIs must work or engage in employment and/or self-sufficiency-related activities.

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

Failing or refusing to:

Appear and participate with the Jobs, Education and Training (JET) Program or other employment service provider.

Complete a Family Automated Screening Tool (FAST), as assigned as the first step in the FSSP process.

Develop a Family Self-Sufficiency Plan (FSSP) or a Personal Responsibility Plan and Family Contract (PRPFC).

Comply with activities assigned to on the Family Self Sufficiency Plan (FSSP) or PRPFC.

Appear for a scheduled appointment or meeting.

Participate in employment and/or self-sufficiency-related activities.

Accept a job referral.

Complete a job application.

Appear for a job interview (see the exception below).

Stating orally or in writing a definite intent not to comply with program requirements. (PEM 233A, p. 1-2).

In the instant case, the Claimant did not report to JET as required, and failed to perform certain work related activities.

At the hearing, claimant stated that she received a call at JET that she was going to be hired and that she informed JET of this fact. The claimant further stated that she missed the first day, April 14, 2009, of JET due to a drug test for this new job. The second day April 15, 2009, was missed due to the claimant filling out paper work for this new job and the following day due to a background check.

The claimant provided documentation of the drug test.

The claimant further stated that she returned to JET the following Monday but was told that a triage had already been scheduled due to her JET absences.

GOOD CAUSE FOR NONCOMPLIANCE

Good cause is a valid reason for noncompliance with employment and/ or self-sufficiency-related activities that are based on factors that are beyond the control of the noncompliant person. A claim of good cause must be verified and documented for member adds and recipients. Document the good cause determination on the DHS-71, Good Cause Determination and the FSSP under the Participation and Compliance tab.

See [School Attendance](#) PEM 201 for good cause when minor parents do not attend school.

If it is determined during triage the client has good cause, and good cause issues have been resolved, send the client back to JET. Do not do a new JET referral.

Good cause includes the following:

Employed 40 Hours

The person is working at least 40 hours per week on average and earning at least state minimum wage.

Client Unfit

The client is physically or mentally unfit for the job or activity, as shown by medical evidence or other reliable information. This includes any disability-related limitations that preclude participation in a work and/or self-sufficiency-related activity. The disability-related needs or limitations may not have been identified or assessed prior to the noncompliance.

Illness or Injury

The client has a debilitating illness or injury, or an immediate family member's illness or injury requires in-home care by the client.

Reasonable Accommodation

The DHS, employment services provider, contractor, agency, or employer failed to make reasonable accommodations for the client's disability or the client's needs related to the disability.

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 PEM 704.

Affordable. The child care is provided at the rate of payment or reimbursement offered by DHS.

No Transportation

The client requested transportation services from DHS, the MWA, or other employment services provider prior to case closure and reasonably priced transportation is not available to the client. (PEM 233A, pp.4-5)

Here, the claimant began the process of completing various assignments because she had been told she was to be hired. The claimant completed the tasks required and when she was told that her background check had been delayed she returned to JET the following Monday.

This ALJ finds that the claimant acted in good faith in the pursuit of employment and that the department inappropriately closed the claimant's FIP and reduced her FAP. I find that the claimant had good cause for her lack of attendance.

DECISION AND ORDER

The Administrative Law Judge based on the above findings of fact and conclusions of law, REVERSES AND ORDERS the Department to reinstate the claimant's FIP and FAP back to May 16, 2009, and replace any lost benefits.



Michael J. Bennane
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 12/14/09

Date Mailed: 12/14/09

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.

MJB/jlg

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