

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]
[REDACTED]
[REDACTED]

Reg. No: 2011-565

Issue No: 1035

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

November 9, 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 November 9, 2010, in Saginaw. Claimant personally appeared and testified under oath.

The department was represented by Paulette Sullivan-McCall (JET Coordinator), Marci Havican (JET Triage worker), Anna Torres (Community Services Coordinator) and Gary Feit (Deputy Director-Michigan Works).

The Administrative Law Judge appeared by telephone from Lansing.

ISSUE

Did the department correctly decide to sanction claimant's FIP (October 1, 2010) due to claimant's failure to complete the Work First assignment at the [REDACTED] (June 30, 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 two minor children are current FIP recipients. Claimant's current FIP grant is \$396.

- (2) All 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 excluded 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 March 8, 2010, claimant was assigned to participate in Work First as a condition of ongoing eligibility for FIP.
- (5) In June 2010, claimant was employed at the [REDACTED].
- (6) On June 30, 2010, the Director of the [REDACTED] counseled claimant about work rules at the center.
- (7) On July 15, 2010, [REDACTED] dismissed claimant from her position due to violation of the center's policy on pricing and holding merchandise.
- (8) On August 15, 2010, the Work First worker closed claimant's FIP case due to claimant's noncompliance with her community service site [REDACTED]).
- (9) On August 17 and August 26, 2010, claimant attended Triage meetings with the JET worker.
- (10) On August 26, the JET Worker found claimant was in noncompliance without good cause with Work First, without good cause, due to her job termination at the [REDACTED] (July 15, 2010).
- (11) On August 30, 2010, the JET worker sent claimant notice of noncompliance (DHS-1605) sent claimant a Notice of Noncompliance (DHS-1605), stating that claimant's FIP would be closed for three months (second sanction). The proposed closure effective date was October 1, 2010.
- (12) On September 9, 2010, claimant filed a timely hearing request. The department deleted the proposed closure of claimant's FIP case, pending the outcome of 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 department 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 the Saginaw County Work First policy to claimant. This policy requires FIP recipients to participate in the Michigan Works program as a condition of on 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. The record also shows that claimant failed to complete her Work First assignment, effective July 15, 2010, when she was dismissed from the [REDACTED] due to a breach of employee work rules.

After a careful review of the record, the Administrative Law Judge concludes there is no evidence of arbitrary or capricious action by the JET caseworker in sanctioning claimant's FIP case. The record clearly shows that the JET caseworker assigned claimant to participate in Work First and to maintain her employment at the [REDACTED].

Unfortunately, claimant did not successfully complete her Work First assignment at the [REDACTED] and therefore, was correctly found in noncompliance with her Work First assignment.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the JET worker correctly sanctioned claimant's FIP case due to claimant's dismissal from her job at the [REDACTED] without good cause. 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: December 9, 2010

Date Mailed: December 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]