

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

██████████
Claimant

Reg. No: 2008-31591

Issue No: 1013

Case No: ██████████

Hearing Date:

December 18, 2008

Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Colleen M. Mamelka

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the Claimant's request for a hearing. After due notice, a hearing was conducted from Detroit, Michigan on December 18, 2008. The Claimant appeared and testified. Denise Holland-Seay and Yvonne Newell appeared on behalf of the Department.

ISSUE

Whether the Department properly terminated the Claimant's FIP benefits based the Claimant's failure to comply with the Jobs, Education, and Training (JET") program requirements.

FINDINGS OF FACT

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

1. The Claimant is a FIP recipient.

2. On August 1, 2008, The Department sent a JET appointment notice to the Claimant, instructing him to appear on or before August 22, 2008. (Exhibits 1, 10)

3. Along with the JET appointment notice, the Department sent a DHS-54A, Medical Needs form, to the Claimant. (Exhibit 11)

4. The Claimant denied receipt of the appointment notice, nor was the DHS-54A returned.

5. The Claimant failed to call or otherwise attend the JET appointment resulting in a triage referral. (Exhibit 1)

6. On August 28, 2008, the Department pended the Claimant's case for closure effective September 9, 2008 based upon the failure to participate in the JET program. (Exhibit 6)

7. As a result of the negative action, the Claimant's FIP-related MA coverage was scheduled for closure effective September 9, 2008. (Exhibit 6)

8. The Department sent a Notice of Non-Compliance to the Claimant informing him of the September 8, 2008 triage appointment. (Exhibit 2)

9. The Department testified that during triage, the Claimant stated he would not participate in the JET program because he needed to care for his disabled spouse (an issue that was previously adjudicated in the Department's favor).

10. The Claimant testified that he needed to care for his spouse; that he did not receive notice of the JET appointment; and that he too was disabled.

11. The Department found good cause was not established and instructed the Claimant to participate in the JET program on September 15, 2008. (Exhibits, 3, 5)

12. The Claimant refused to sign the First Non-Compliance Letter and instead filed a written request for hearing. (Exhibits 4, 6, 7)

13. The negative action was deleted due to the timely 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 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”).

DHS requires clients to participate in employment and self-sufficiency related activities and to accept employment when offered. PEM 233A, p. 1 The Family Self-Sufficiency Plan (“FSSP”) was created to allow DHS and other DHS client service providers to share information about mutual clients for optimal case management. PEM 228, p. 1 The FSSP seeks to assist clients to achieve self-sufficiency, whenever possible, by identifying and removing barriers. PEM 228, p. 1 All Work Eligible Individuals (“WEI”) are required to participate in the development of FSSP unless good cause exists. PEM 228, p. 1 As a condition of eligibility, all WEIs must engage in employment and/or self-sufficiency related activities. PEM 233A, p. 1 The WEI is considered non-compliant for failing or refusing to appear and participate with the Jobs, Education, and Training Program (“JET”) or other employment service provider. PEM 233A, p. 1 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. PEM 233A, p. 3 Failure to comply without good cause results in FIP closure.

PEM 233A, p. 5 The first and second occurrences of non-compliance results in a 3 month FIP closure. PEM 233A, pp. 5-6

Policy in effect at the time of the negative action provided that a caretaker who provides care for a spouse with disabilities living in the home is not a WEI and is not referred to JET if:

- The need for supervised, in-home care by the caretaker is verified by a doctor's statement, using a DHS-54A, Medical Needs form that must include the need for supervision, the condition of the spouse with disabilities, and to what extent care is needed;
- The individual with disabilities lives with the caretaker; **and**
- The individual with disabilities is a recipient of SSI/RSDI due to disability or blindness or a doctor verifies in writing using the DHS-54A, Medical Needs form the need for supervised, in-home care by the caretaker.

PEM 230A, p. 10 The need for supervised, in-home care by the caretaking using a DHS054A Medical Needs form is a required verification. PEM 230A, p. 11

In the record presented, the Claimant was required to participate in the JET program. The Claimant initially testified that he could not participate in the JET program because he needed to care for his disabled spouse. Although the Claimant disagreed with the outcome, the issue was previously adjudicated and decided against the Claimant. The Claimant next asserted that he never received the JET appointment notice. The Department maintained that the Claimant never addressed this issue during the triage or at any point during the period at issue. The Claimant agreed that he never returned the DHS-54A, Medical Needs form. The Claimant's final contention as to why he was unable to participate in the JET program was due to his own disability. The Department denied the issue was ever brought up previously. Subsequent to the triage, the Claimant initiated a claim for disability. During the hearing, the Claimant made several attempts to address issues not relevant to the hearing request, to include a determination of his own

disability. As previously noted, the Department provided the Claimant with a DHS-54A (Medical Needs form) which was not returned. During the hearing, the Claimant produced a DHS-54A form which he intends on submitting with his disability claim. In deciding this case, it was necessary to assess the credibility of the testimony presented. The Department's testimony was straightforward and credible, whereas the Claimant's testimony was conflicting, and at times, not believable. Ultimately, the Department established it acted in accordance with department policy when it pended the Claimant's case for closure for failing to participate, as required, in the JET program. Under this scenario, the Department's determination is AFFIRMED.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department acted in accordance with department policy when it pended the Claimant's benefit case for closure.

Accordingly, it is Ordered:

1. The Department's determination to terminate the Claimant's FIP benefits is AFFIRMED.
2. A 3-month FIP sanction is imposed from the date of closure based upon the JET non-compliance in accordance with department policy.

/s/

Colleen M. Mamelka
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 12/22/08

Date Mailed: 01/06/09

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 60 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.

CMM

[REDACTED]