

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: 2009-11295
Issue No: 1021
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
April 9, 2009
Bay County DHS

ADMINISTRATIVE LAW JUDGE: Jeanne M. VanderHeide

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 hearing. After due notice, a telephone hearing was conducted from Detroit, Michigan on April 9, 2009. The Claimant appeared and testified.

[REDACTED], [REDACTED], [REDACTED] appeared on behalf of the Department.

ISSUE

Whether the Department properly issued a negative action effective 1/10/09 on Claimant's FIP case for failure to attend Work First.

FINDINGS OF FACT

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

1. Claimant is an active FIP recipient.
2. Claimant was initially deferred from JET requirements for medical reasons.
3. Claimant's case was referred to MRT for evaluation on 10/14/08.

4. Following a determination by MRT that Claimant was not disabled on 11/20/08 (Exhibit 1, p. 5), Claimant was referred to JET.
5. Claimant began the JET program on 12/15/08.
6. Claimant testified that she suffers from bipolar disorder and severe panic attacks. Claimant takes Prozac, Ambilify, and Antivan to control her mental disorders.
7. Claimant also testified that a panic attack usually consists of her head spinning, body shakes, cold chills, and nausea.
8. Claimant testified that she was unable to participate in JET work activities the weeks of 12/15/08 and 12/22/08 due to panic attacks. Claimant testified that on 12/15/08 following the panic attack, she went home, took some medication, called her doctor and tried to do work activities again, but she was unable to handle the situation, so she left.
9. Claimant testified that her doctor referred her to the hospital for a psychiatric admission on 12/22/08, but Claimant declined because there was no guarantee that she would be released by Christmas.
10. A note from [REDACTED] reads as follows: "In her current condition (including severe depression with suicidal ideation, warranting hospitalization) there is no way Rebecca can tolerate participation in the Work First program so she should be excused indefinitely." (Exhibit 1, p. 9).
11. Claimant further produced a note from [REDACTED] which states as follows:

I'm writing this letter on behalf of [REDACTED]. She is presently involved in ongoing outpatient mental health services [REDACTED]. Her diagnosis is 296.63 Bipolar I Disorder, Most Recent Episode – Mixed Severe Without

Psychotic Features and 3002.1 Panic Disorder with Agoraphobia. Her outpatient services consist of psychopharmacology with [REDACTED] and cognitive behavioral therapy with [REDACTED]

Because of difficulty with sleep, changes in mood, racing thoughts, and intense anxiety with panic, I don't believe that it would be in [REDACTED] best interest to take on the responsibility of a job at this time. During her last medication review on 3/23/09, [REDACTED] made an adjustment in her medication(s) to assist with maintaining stabilization of her mood. (Exhibit 2, p. 1).

12. A notice of noncompliance was issued to Claimant on 12/23/09 (Exhibit 1, p. 11).
13. A triage meeting was scheduled on 1/8/09 and the Department determined that there was no good cause for Claimant's missing the JET work requirements. (Exhibit 1, p. 13).
14. On February 6, 2009, the Department received the Claimant's written hearing request.
15. Claimant is still receiving FIP benefits.

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).

Federal and State laws require each work eligible individual in a FIP group to participate in the Jobs, Education and Training (JET) Program or other employment-related activities unless

temporarily deferred or engaged in activities that meet participation requirements. PEM 230A. All work eligible individuals who fail, without good cause, to participate in employment or self-sufficiency-related activities will be penalized. PEM 233A. Failure to appear at a JET program results in noncompliance. Id.

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 at 4. Good cause includes being physically or mentally unfit for the job or activity as shown by medical evidence or other reliable information. Id. The penalty for noncompliance without good cause is FIP closure. Id. at 6. If good cause is established the negative action is to be deleted. Id. at 12.

In this case, the Claimant provided credible testimony that, on the date of the JET participation, she was mentally incapable of attending to her JET work requirements. The Claimant's panic attacks prevented her from performing the 30 hours of job searching required by JET. Claimant's panic attacks are supported by medical documentation showing that Claimant has been medically diagnosed with panic attacks and that she was referred to the hospital on this particular occasion for severe depression with suicidal ideation. Therefore, the undersigned finds that Claimant has shown good cause that Claimant was mentally incapable of performing the JET requirements.

Based upon the foregoing facts and relevant law, it is found that the Department's determination is REVERSED.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds the Department's determination is not upheld.

Accordingly, it is ORDERED:

1. The Department's negative action for noncompliance, effective 1/10/09, shall be deleted.
2. The Department shall supplement the Claimant with any lost benefits she was otherwise entitled to receive.

/s/

Jeanne M. VanderHeide
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 04/14/09

Date Mailed: 04/15/09

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 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.

JV/dj

cc:

