

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.: 2009-14533

Issue No.: 1038

Case No.: [REDACTED]

Load No.: [REDACTED]

Hearing Date:

April 8, 2009

Saginaw County DHS

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 April 8, 2009. The Claimant personally appeared and testified.

ISSUE

Did the Department properly attempt to close the Claimant's Family Independence Program (FIP)?

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 recipient. The group size was two (2).
2. On December 10, 2008, the Department the Department received a Medical Needs form stating that the claimant could participate in Jobs Education and Training (JET). (Department exhibit 9).

3. On December 11, 2008, the department sent the claimant a notice of a JET appointment. (Department exhibit 8).
4. On January 12, 2009, the department sent the claimant a notice of noncompliance with work related activities, with a triage scheduled for January 22, 2009. (Department exhibit 6).
5. On January 22, 2009, the claimant attended the triage and provided the department with a medical needs form stating that the claimant could not work at any job due to chronic pelvic pain for three (3) months. (Department exhibit 4).
6. The department requested further clarification as to the Claimant's ability to attend JET. The department attempted to call the claimant's physician toward that end, but was unsuccessful. The department gave the claimant one day to present another medical needs form.
7. On January 24, 2009, the Department closed the claimant's FIP.
8. On February 5, 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).

In the instant case, the Claimant was attempting to get a deferral from JET.

Short-Term Incapacity

Defer persons with a mental or physical illness, limitation, or incapacity which is expected to last less than three months and which prevents participation. Defer for up to three months.

Verify the short-term incapacity and the length of the incapacity using a DHS-54A, Medical Needs form or other written statement from an MD/ DO. Set the medical review date in CIMS accordingly, but not to exceed three months. (PEM 230A, p.11).

The claimant presented the department with a medical needs form that stated that she could attend JET but at the triage. On January 22, 2009, the department had already been presented with a new medical needs form signed by the same physician, stating that the claimant was unable to do any work for three months due to chronic pelvic pain.

The department made an attempt to contact the claimant's physician to no avail. The department gave the claimant one day to provide it with another medical needs form directly addressing JET attendance.

The department found that the medical needs form was not specific to JET activities and therefore failed for being not specific enough. I find it hard to fathom how chronic pelvic pain would be any better during JET attendance than it would be during a sedentary job and the claimant's physician already stated that she was unable to do "any" work for three (3) months.

I find the short-term incapacity, as stated by her physician in the evidence offered, as good cause for nonparticipation.

Since this hearing took place past the time her physician requested that she be excused from any work the department may now re-refer the Claimant to JET

DECISION AND ORDER

The Administrative Law Judge based on the above findings of fact and conclusions of law, REVERSES AND ORDERS the Department to reopen the claimant's FIP and replace any lost benefits. The department may refer the claimant to JET following the period of time that her physician requested she be excused.

/s/

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

Date Signed: 05/04/09

Date Mailed: 05/05/09

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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