

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: 2009-15287

Issue No: 1021

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

April 16, 2009

Wayne 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 on February 17, 2009. After due notice, a telephone hearing was conducted from Detroit, Michigan on April 16, 2009. The Claimant appeared and testified. Nancy Donnelly, JET worker appeared on behalf of the Department.

ISSUE

Whether the Department properly issued a negative action, effective 2/24/09, on Claimant's FIP case for a failure to supply forms for MRS review?

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 requested a JET referral for medical reasons.

3. The Department testified that Claimant was required to turn in DHS forms 517, 1555E, 49G, 49F, 54A and 49 in order to refer Claimant's case to MRS for medical review.
4. Claimant was originally mailed forms on 10/10/09 and the original due date for Claimant to return these forms was 10/22/08.
5. Upon request from Claimant, the forms were mailed a second time on 11/26/08. Claimant returned some but not all of the forms.
6. The forms were mailed to Claimant a third time on 1/12/09 due on 1/27/09.
7. The Claimant did not attend Work First or send in a complete set of completed medical forms.
8. Claimant testified that she has been having trouble getting her mail because her landlord's house was undergoing foreclosure. As a result of the foreclosure, Claimant is currently homeless and living in a shelter.
9. Claimant also testified that she had some difficulty obtaining the completed forms from her medical providers.
10. Claimant testified that she is suffering from back pain and depression and that she is being treated at the [REDACTED]. Claimant admitted that she is not functioning well.
11. Claimant testified that she has been on psychotropic and other pain medications which cause her to sleep during the day.
12. The Department issued a Notice of Noncompliance on 1/26/09 for failure to attend Work First.
13. A triage was scheduled for 2/19/09 which Claimant did not attend.

14. On February 17, 2009, the Department received the Claimant's written hearing request.
15. Claimant is currently 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.

Caseworkers are instructed to be alert to undisclosed or unrecognized disabilities and offer screening and assessment as appropriate. PEM 233A. Clients requesting accommodation or deferral should be informed that they may be required to attend appointments with MRS, doctors, psychologists, or others to ensure that appropriate accommodations or deferrals are made. Medical assessment is voluntary but failure to cooperate with assessment may prevent DHS from providing a deferral or accommodation. Persons with a mental or physical illness, limitation, or incapacity expected to last more than 90 days and preventing their participation in employment-related activities should be deferred from JET participation. Id.

Clients must cooperate with the local office in determining initial and ongoing eligibility to provide verification. PAM 130, p. 1. The questionable information might be from the client or a third party. Id. The Department can use documents, collateral contacts or home calls to verify information. Id. The client should be allowed 10 calendar days to provide the verification. If the client cannot provide the verification despite a reasonable effort, the time limit to provide should be extended at least once. PAM 130, p.4; PEM 702. If the client refuses to provide the information or has not made a reasonable effort within the specified time period, then policy directs that a negative action be issued. PAM 130, p. 4. Before making an eligibility determination, however, the department must give the client a reasonable opportunity to resolve any discrepancy between his statements and information from another source. PAM 130, p. 6.

In this case, the Claimant is suffering from depression and is taking pain medication which affects her ability to function. In addition, Claimant testified that she was having

difficulty receiving her mail. The Department indicated that medical documents were sent to Claimant several times. However, if Claimant did not receive the documents one or more of those times, then it follows that Claimant should have been allowed additional time to provide the necessary documentation. This Administrative Law Judge finds that Claimant's depression is good cause for failure to attend Work First.

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 1/26/09, 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: 04/27/09

Date Mailed: 04/28/09

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:

