

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.: 2009-15737

Issue No.: 1005

Case No.:

Load No.:

Hearing Date:

April 16, 2009

Wayne County DHS (58)

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 16, 2009. The Claimant personally appeared and testified.

ISSUE

Did the Department properly 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.
2. On February 17, 2009, the department sent the claimant a medical needs form to be completed.
3. On February 26, 2009, the department made a second request for a medical needs form.
4. On February 26, 2009, the claimant filed a request for a hearing.

5. On March 31, 2009, the department closed the claimant's FIP.

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 deferred from JET. The department requested further documentation of the reasons for the deferral after the deferral period had elapsed.

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 department attempted to get a completed medical needs form from the claimant. At the hearing the claimant stated that she had already provided the department with a medical needs form. The department testified that it had received a medical needs form completed by the claimant.

The department should have followed through with its assignment of the claimant to JET without the properly completed Medical needs form. Once assigned it should have sent the

claimant a notice of noncompliance, assuming the claimant did not attend JET. It is the noncompliance with JET that is actionable, not the failure to provide documentation of a verified medical need to excuse the claimant from JET.

In the instant, case there is no evidence that the department assigned the claimant to JET and then closed her case for noncompliance.

This ALJ finds the department erred in closing the claimant's FIP for failure to provide verification of her medical need to prohibit her JET attendance. However, it is incumbent upon the claimant to provide the department with medical proof of her inability to attend JET every time her previous deferment expires. Without such proof the department is well within its rights to assign 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 if she does not provide timely proof of her a medical need to not attend JET.

/s/

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

Date Signed: 05/19/09

Date Mailed: 05/19/09

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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