

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: 2009-15744  
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 26, 2009. After due notice, a telephone hearing was conducted from Detroit, Michigan on April 16, 2009. The Claimant appeared and testified. Titicia Rosen, FIM appeared on behalf of the Department.

ISSUE

Whether the Department properly issued a negative action effective 1/6/09 on Claimant's FIP case for a 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 was a FIP recipient.
2. Claimant was deferred from JET in order to complete her education.

3. On December 13, 2008, Claimant completed her final exams for an Associate of Applied Science in Surgical Technology.
4. Claimant had been instructed by her JET coordinator to report to Work First following the completion of her final exams.
5. Claimant testified that she was suffering from the flu and an acute upper respiratory infection during her final exams.
6. Claimant produced a doctor's note from [REDACTED] indicating that Claimant was under doctor's care from 12/9/08-12/22/08 and Claimant was allowed to return to work on 12/23/08 as a result of an URI. (Exhibit 1).
7. The Department issued a notice of noncompliance on 12/23/08 for failure to attend Work First.
8. A triage was scheduled for 1/5/09 and the Department determined that Claimant did not have good cause for not returning to Work First.
9. A negative action was issued effective 1/6/09 and Claimant's FIP benefits were terminated.
10. On February 17, 2009, the Department received the Claimant's written 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 (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, Claimant produced evidence from a doctor indicating that she was unable to work at the time that she was required to report to Work First. This Administrative Law Judge finds that Claimant's upper respiratory infection was 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 1/6/09, shall be deleted.
2. The Department shall supplement the Claimant with any lost benefits she was otherwise entitled to receive.

/s/  
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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:

