

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: 2009-16061
Issue No: 1021
Case No: ██████████
Load No: ██████████
Hearing Date:
April 15, 2009
Oakland 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 March 13, 2009. After due notice, a hearing was conducted on April 15, 2009. The Claimant appeared and testified. Claimant was represented by ██████████. Nicole Watkins appeared on behalf of the Department.

ISSUE

Whether the Department properly issued a negative action 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 is an active FIP recipient.
2. Claimant's case was referred to the Medical Review Team to determine if Claimant qualified for a medical deferment.

3. Following a determination by MRT that Claimant was not disabled on 2/12/09 (Exhibit 1, p. 1), Claimant was referred to JET (Exhibit 1, p. 2).
4. Claimant was required to attend JET including and through March 16, 2009.
5. Claimant testified that she informed her caseworker and JET coordinator that she is medically unable to work.
6. Claimant testified that she suffers from fibromyalgia, degenerative disc disease, scoliosis, radiculopathy, osteoporosis, arthritis, CLPD and depression. Claimant wears a back brace for the scoliosis and uses a cane to ambulate. Claimant is on oral pain medication and also receives epidural injections every few weeks for pain control.
7. Claimant testified that she was unable to participate in JET work activities in March of 2009 due to her medical impairments.
8. Claimant produced a Medical Examination Report from [REDACTED] dated 12/22/08 indicating that Claimant has physical limitations as follows:
 - Lifting up to 10 lbs. occasionally
 - Stand/walk – less than 2 hrs in an 8 hr work day.
 - No pushing/pulling, reaching or fine manipulating with hands/arms
9. Claimant produced a Medical Needs form signed by [REDACTED], indicating that Claimant is “totally disabled lifetime.” (Exhibit 1, p. 6).
10. Claimant also testified that her eleven (11) year old son, [REDACTED], has been diagnosed with ADHD opposition defiant disorder. [REDACTED] is enrolled in special education classes for emotional impairment.
11. Claimant testified that she has been required to pick [REDACTED] up from school eight (8) times since September of 2008 due to fighting.

12. Furthermore, Claimant is now required to drive [REDACTED] to and from school because of fighting on the school bus.
13. Claimant submitted a letter from [REDACTED] dated 3/4/09 which states:

Due to [REDACTED] emotional issues, I believe that [REDACTED] needs to provide care for [REDACTED] on a daily basis. I have provided [REDACTED] with community resources that can help her and her family with this issue. Child care was discussed, but [REDACTED] behavioral issues are not yet controlled for this type of environment. Due to not having extended family or friends to want to help care for [REDACTED] after school, [REDACTED] needs to be available to care for him at this current time.

(Exhibit 2, p. 1).
14. Claimant's case was placed into negative action for non-cooperation with JET.
15. On March 13, 2009, the Department received the Claimant's written hearing request.
16. 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. Good cause also includes having appropriate, suitable, and affordable child care within reasonable distance of the client's home or work site. The care must be appropriate to the child's age, disabilities and other conditions. 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 required JET participation, she was physically incapable of attending to her JET work requirements. Claimant's medical impairments are supported by medical documentation showing that Claimant has been medically diagnosed with a variety of conditions affecting her spine. Claimant testified to physical limitations which were supported by her doctors. Therefore, the undersigned finds that Claimant has shown good cause that Claimant was physically incapable of performing the JET requirements. The undersigned also finds that lack of appropriate child care for after school hours, given [REDACTED] emotional impairment, would also constitute good cause.

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 regarding the March 2009 JET requirement 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: 04/21/09

Date Mailed: 04/22/09

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:

