

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: 2009-17272

Issue No: 1021

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

April 29, 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. After due notice, a telephone hearing was conducted from Detroit, Michigan on April 29, 2009. The Claimant appeared and testified. [REDACTED] also testified for the Claimant. Adman Moon, FIM and Pam Reese, FIS, appeared on behalf of the Department.

ISSUE

Whether the Department properly issued a negative action, effective 3/21/09, in Claimant's FIP case for failure to appear for MRS appointments?

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 asserted that she was unable to attend workfirst due to medical impairments.
3. Claimant's physician filled out a Medical Needs form indicating that Claimant suffers from asthma, anemia, dysfunctional bleeding, and chronic back pain. (Exhibit 1, p. 1).
4. The Department referred Claimant to [REDACTED]).
5. [REDACTED] first scheduled Claimant for an appointment on 1/29/09. (Exhibit 1, p. 3).
6. Claimant testified that she did not appear for the appointment because she did not receive bus tickets in the mail from the Department. Claimant further testified that she was in the office the week prior to her appointment and spoke directly with Department representatives about her transportation problem.
7. Claimant did not appear for the 1/29/09 appointment. (Exhibit 1, p. 3)
8. [REDACTED] scheduled Claimant's second appointment on 2/19/09. (Exhibit 1, p. 2).
9. Claimant testified that she never received any notice of the 2/19/09 appointment.
10. Claimant did not appear for the 2/19/09 appointment. (Exhibit 1, p. 2).
11. Claimant's case was re-referred to [REDACTED] [REDACTED] scheduled Claimant's third appointment on 3/19/09.
12. Claimant testified that on 3/19/09, she called to inform [REDACTED] that she would be late and was waiting for a return call from the JET coordinator. Claimant testified that she tried to call the JET coordinator all day.
13. Claimant did not appear for the 3/19/09 appointment. (Exhibit 1, pp. 6, 7)
14. A negative action was issued on 3/21/09.

15. Claimant's FIP case was closed on 4/21/09 for reasons unrelated to this hearing request.
16. On March 30, 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.

In cases where FIP clients are receiving services from [REDACTED], FIP defers to the [REDACTED] plan for the clients, and fully counts the individuals as engaged in work activities if they are meeting their [REDACTED] work plan. PEM 230A, p. 10.

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 when the client has a debilitating illness or injury or when an immediate family member's illness or injury requires in-home care by the client. Id. Good Cause also includes when the client has requested transportation services from DHS, the MWA, or other employment services provider prior to case closure and reasonably priced transportation is not available to the client. PEM 233A at p. 5. 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 she had a transportation problem and had requested bus tickets prior to the 1/29/09 [REDACTED] appointment. Claimant also provided testimony that she never received notice of the second appointment on 2/19/09. The Administrative Law Judge finds that both these instances constitute good cause for not appearing at the [REDACTED] appointments. However, Claimant did not provide any justification for not appearing for the third appointment on 3/19/09. Claimant knew about the appointment as she called to say that she was running late. Claimant testified that she tried calling the JET coordinator all day and never received a return phone call. Despite being asked, Claimant provided no testimony as to why she did not appear for the 3/19/09 appointment. Accordingly, the undersigned finds that there was no good cause for Claimant missing the 3/19/09 [REDACTED] appointment. Claimant is, therefore, in noncompliance with the [REDACTED] program and the Department's decision to place Claimant's FIP into negative action is affirmed.

Based upon the foregoing facts and relevant law, it is found that the Department's determination is AFFIRMED.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department properly issued a negative action in Claimant's FIP case effective 3/21/09 for not appearing for a scheduled [REDACTED] appointment.

Accordingly, the Department's FIP negative action, effective 3/21/09, is AFFIRMED.

/s/

Jeanne M. VanderHeide
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 05/05/09

Date Mailed: 05/06/09

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:

[REDACTED]