

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: 2009-17531
Issue No: 1021
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
May 14, 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 April 1, 2009. After due notice, a hearing was conducted on May 14, 2009. The Claimant appeared and testified. Claimant was represented by [REDACTED]. H.J. Jones, Jr., FIM and Marsha Paymon, FIS 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 deferrment.

3. Following a determination by MRT that Claimant was not disabled and ready to work with limitations on 2/17/09 (Exhibit 1, p. 1), Claimant was referred to JET (Exhibit III, p. 17).
4. Claimant was required to attend JET orientation on 3/2/09 and 3/9/09. Exhibit IX, pp. 26, 28)
5. Claimant testified that he informed his caseworker and JET coordinator that he is medically unable to work.
6. Claimant testified that he suffers from severe asthma and that he uses three different inhalers plus a nebulizer 2-3x/day to control the asthma. Furthermore, Claimant testified that he experiences an asthma attack twice a week.
7. Claimant testified that he was unable to participate in JET work activities in March of 2009 due to his medical impairments.
8. Claimant produced a Medical Examination Report and Medical Needs report from [REDACTED] dated 3/27/09 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
 - “Severe Asthma – unable to work”. (Exhibit A).
9. Claimant testified that he was informed that there was not sufficient notice sent to him for the 3/2/09 JET orientation date and that he was instructed to just come the next week.
10. On 3/9/09, Claimant appeared at Orientation and was sent home by the JET Director as Claimant was too sick to work. The JET Director also requested that Claimant be referred to MRT (Exhibit IX, p. 27)

11. Claimant testified that the next day, his asthma was so bad that he had to call an ambulance. Claimant did not have any proof of same.
12. Claimant's case was placed into noncompliance on 3/19/09.
13. Claimant signed a noncompliance letter indicating that he would begin JET again on 3/23/09.
14. Claimant testified that he did not know what it was that he was signing.
15. Claimant did not appear on 3/23/09.
16. Claimant testified that he was unable to work on 3/23/09 due to his asthma.
17. Claimant was observed to be in bronchial distress, coughing repeatedly, at the hearing.
18. On April 1, 2009, the Department received the Claimant's written hearing request.
19. 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 dates of the required JET participation, he was physically incapable of attending to his JET work requirements. Claimant's medical impairments are supported by medical documentation showing that Claimant has been medically diagnosed with asthma which, in the doctor's opinion, prohibits Claimant from working. Therefore, the undersigned finds that Claimant has shown good cause that Claimant was physically incapable of performing the JET requirements.

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 3/19/09 noncompliance for missing the JET orientation shall be deleted.
2. The Department shall supplement the Claimant with any lost benefits he was otherwise entitled to receive.

/s/

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

Date Signed: 05/21/09

Date Mailed: 05/26/09

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:

