

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: 2009-19706
Issue No: 1038
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
May 27, 2009
Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Tyra L. Wright

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9; and MCL 400.37 upon Claimant's request for a hearing. After due notice, a hearing was held on May 27, 2009. Claimant's wife personally appeared and testified. A Work First/JET employment consultant appeared as a witness. A family independence manger and a JET specialist represented the Department.

ISSUE

Did the Department properly determine that Claimant's Family Independence Program (FIP) case should be closed on the grounds that his wife failed to comply with the Jobs, Education and Training (JET) program requirements without good cause?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

- (1) Claimant is a FIP recipient. His FIP group includes his wife. The group last received \$597 in monthly FIP benefits.

- (2) Claimant's wife was required to attend Michigan Works/JET.
- (3) On April 1, 2009, the Department sent Claimant a Notice of Noncompliance because she had been absent from JET frequently from mid-December 2008 through March 2009. (Exhibit 2).
- (4) The Work First/JET witness asserted that the wife missed 28 appointments from December 15, 2008 through March 23, 2009.
- (5) Claimant's wife asserted that she called each time to report her inability to attend JET due to illness.
- (6) The Notice of Noncompliance stated that a triage meeting had been scheduled for April 9, 2009 at 2:00 PM at the Department office. (Exhibit 2).
- (7) Claimant's wife attended the triage where she provided medical documentation for some of her absences when she sought medical treatment.
- (8) Claimant's wife provided medical documentation that she was diagnosed with Biliary Colic with gall stones at the [REDACTED] on April 1, 2008.
- (9) The wife's discharge instructions indicate that she was to follow-up with the surgical Department within a couple days.
- (10) Claimant's wife started Work First/JET in July 2008.
- (11) The wife contends that she told her Work First/JET caseworker, Pat, about her gallstone condition and that each time she could not attend JET due to illness she called [REDACTED] to keep her abreast of her situation.
- (12) Claimant's wife asserted that by September 2008 her illness grew worse, and on November 20, 2008, she called to report her inability to attend JET due to illness.

The wife continued to call in and report her absence due to illness for several dates in December 2008. The wife also missed numerous appointments from January through March 2009 due to illness. Claimant's wife contends that she always called to report her absence due to illness.

- (13) At her triage meeting Claimant's wife provided documentation for certain dates, but not all of her absences. (See Exhibits 11-16).
- (14) The Department found no good cause for the wife's failure to attend JET because she did not have medical documentation for each absence.
- (15) The Department then determined to sanction Claimant for the group's second noncompliance.
- (16) Claimant's wife disagreed on the grounds that she was absent due to illness and called to report each time that she was unable to attend JET.
- (17) The Department timely received Claimant's hearing request on April 13, 2009. (Exhibit 9).

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 for FIP are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

DEPARTMENT POLICY

FIP, RAP Cash

Federal and State laws require each work eligible individual (WEI) in the FIP and RAP 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. These clients must participate in employment and/or self-sufficiency related activities to increase their employability and obtain stable employment. (PEM 230A, pg. 1)

NONCOMPLIANCE PENALTIES FOR ACTIVE FIP CASES AND MEMBER ADDS

The penalty for noncompliance without good cause is FIP closure. Effective April 1, 2007, the following minimum penalties apply:

- For the first occurrence on the FIP case, close the FIP for not less than three calendar months unless the client is excused from the noncompliance as noted in [First Case Noncompliance Without Loss of Benefits](#) below.
- For the second occurrence on the FIP case, close the FIP for not less than three calendar months.
- For the third and subsequent occurrence on the FIP case, close the FIP for not less than 12 calendar months. (PEM 233A).

CLIENT OR AUTHORIZED REPRESENTATIVE RESPONSIBILITIES

Responsibility to Cooperate All Programs

Clients must cooperate with the local office in determining initial and ongoing eligibility. This includes completion of necessary forms. (BAM 105)

Refusal to Cooperate Penalties

All Programs

Clients who are able but refuse to provide necessary information or take a required action are subject to penalties. (BAM 105)

Although Claimant's wife missed numerous JET appointments, she provided the Department with medical documentation of her illness that coincided with some dates and asserted that she called to report her absence due to illness each time that she was absent. That Claimant's wife provided evidence that she suffered from a gallbladder condition for which she

finally submitted to an operation on [REDACTED] is consistent with finding credible her testimony that she was frequently ill prior to the surgery. Moreover, neither the Department nor the Work First/JET witness disputed that the wife failed to call to report her absence due to illness. In addition, Claimant's wife was not given an opportunity to comply with Work First/JET requirements by completing a compliance test. Therefore, it is found that the Department did not meet the burden of proving that the wife failed to cooperate with the requirement to attend JET.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department improperly determined to sanction Claimant for a second noncompliance by closing his FIP case for three months.

Accordingly, the Department's action is REVERSED. The Department is ORDERED to reopen Claimant's case if it has been closed and pay any benefits he failed to receive due to the closure of his case on the grounds that his wife failed to attend JET. If the case has not yet been closed, the Department is ORDERED to remove the negative action.

/s/

Tyra L. Wright
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 06/04/09

Date Mailed: 06/05/09

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

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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.

TW/dj

cc:

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