

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: 2009-21078
Issue No: 1038
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
June 15, 2009
Macomb 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 June 15, 2009. Claimant personally appeared and testified. A case worker represented the Department.

ISSUE

Did the Department properly determine that Claimant's Family Independence Program (FIP) case should be closed on the grounds that he 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 for a group size of 2.
- (2) On March 16, 2009, he was referred to Michigan Works/JET after the Department's Medical Review Team denied his request for a deferral.

- (3) Initially, he was to attend Michigan Works/JET on March 30, 2009. Due to a medical appointment, he was given a new appointment date of April 6, 2009.
- (4) Claimant did not attend Michigan Works/JET on April 6, 2009 due to illness.
- (5) Claimant has several medical conditions. In this case if it is found that he failed to attend Michigan Works/JET on April 6, due to obstructive sleep apnea which includes seizures during his sleep and a chronic sinus condition characterized by frequent infections. Claimant was prescribed a nasal CPAP machine to address his sleep. As a result of the chronic sinus infections and his sleep apnea condition, Claimant received little sleep and was unable to attend Michigan Works/JET on April 6, 2009.
- (6) The Department determined that Claimant's case should be closed due to noncompliance and placed a negative action on his case. The negative action was suspended pending the outcome of this hearing.
- (7) The Department timely received Claimant's hearing request on April 16, 2009.

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 selfsufficiency 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)

It is found that Claimant did not refuse to cooperate with the Department, but rather was unable to attend Michigan Works/JET due to illness. Under these circumstances, it is found that his FIP case should not be closed.

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 close Claimant's FIP case.

Accordingly, the Department's action is REVERSED. The Department is ORDERED to remove the negative action from Claimant's FIP case.

/s/

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

Date Signed: 06/18/09

Date Mailed: 06/22/09

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.

TW/dj

cc:

