

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: 2009-22117

Issue No: 1021

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

June 17, 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 June 17, 2009. The Claimant appeared and testified. Cheryl Bellomy, FIM and Rejenia Francis, JET worker and FIS appeared on behalf of the Department.

ISSUE

Whether the Department properly issued a negative action effective 4/20/09 resulting in denial of Claimant's FIP application for a failure to comply with 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 applied for FIP benefits and was referred to JET.

2. The Department produced notes from the JET workers indicating a series of problems with Claimant's attitude and attendance. However, the JET workers were not available to testify as to the actual occurrences.
3. Claimant testified that she missed attending Work First on 4/14/09 and 4/15/09 because she had the flu.
4. Claimant testified that on 4/16/09, she attended Work First and signed in at 8:30 a.m., but then had to rush out in order to catch the bus to obtain a TB test at the hospital.
5. Claimant testified that she requested bus tickets on 4/16/09 but that she was told by the receptionist that bus tickets would not be available until 4:00 p.m. and since she rushed out to get a TB test, she did not pick up the bus tickets.
6. Claimant admitted at the hearing that she has "had words with her caseworkers at JET" and may have said that "this is BS."
7. Claimant testified that she is treating with a psychiatrist and is currently taking Seroquil.
8. Claimant appeared emotionally unbalanced at the hearing.
9. The Department found Claimant to be noncompliant with Work First and terminated benefits as of 4/20/09 for attendance and behavior issues. However, there was no notice of noncompliance or notice of triage provided in the hearing packet.
10. On May 14, 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.

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. Id. This includes any disability-related needs or limitations that may not have been identified or assessed prior to the noncompliance. PEM 233A at p. 4. The penalty for noncompliance without good cause is FIP closure. PEM 233A at 6. If good cause is established the negative action is to be deleted. Id. at 12.

In the present case, the Claimant was clearly suffering from some mental impairment based on her presentation and testimony at the hearing. Claimant testified that she is treating with a psychiatrist and is taking Seroquil which is an antipsychotic used to treat symptoms of psychotic conditions such as schizophrenia and bipolar disorder. Seroquil also has a 20% side effect rate for agitation. Other possible, serious side effects can include mood or behavior changes, impulsiveness, irritableness, agitation, hostile behavior or aggressiveness. The undersigned finds that Claimant's presentation and testimony is reliable information that indicates Claimant was mentally unfit for the job or activity. Therefore, the undersigned finds that Claimant has shown good cause that she was mentally incapable of performing the JET requirements.

In the future, Claimant will be required to show medical evidence from her psychiatrist indicating any mental limitations that she may have to document deferral on a medical basis. Claimant can ask for help from her case worker in obtaining a mental residual capacity evaluation form to present to her treating physician. In addition, it is noted that the Department has agreed to have Claimant reapply for FIP as of the date of the hearing and proceed to defer Claimant for anger management classes.

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, effective 4/20/09, resulting in a Claimant's FIP case shall be deleted.

2. The Department shall reopen and reprocess Claimant's FIP case as of the date of closure and 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: 06/25/09

Date Mailed: 06/29/09

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:

