

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: 2009-22494
Issue No: 1021
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
June 22, 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 22, 2009. The Claimant appeared and testified. Titicia Rosen, FIM and Chrysti Kinney, FIS appeared on behalf of the Department.

ISSUE

Whether the Department properly issued a negative action and closed Claimant's FIP case effective 4/7/09 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 was an active FIP recipient and was referred to JET on 3/9/09.
2. Claimant failed to show for Work First on 3/9/09.
3. Claimant testified that she appeared for Work First on 3/16/09 but that they would not let her in because the date on the Work First assignment was crossed out.

4. Claimant missed Work First on 3/23/09 because she did not have a ride.
5. A triage was scheduled for 4/2/09. However, Claimant called in and the triage was done by telephone.
6. The Department determined that there was no good cause for Claimant to have missed Work First on 3/23/09. (Exhibit 1, p. 1).
7. At the triage, Claimant agreed to attend Work First on 3/30/09, and a DHS 754, First Noncompliance Letter was sent on 3/25/09. (Exhibit 1, p. 4).
8. Claimant did not attend Work First on 3/30/09 and the Department closed Claimant's FIP case effective 4/9/09.
9. Claimant testified that she was unable to attend on 3/30/09 because she was in an automobile accident on March 29, 2009 and was an inpatient at [REDACTED] hospital.
10. On May 13, 2009, the Department received the Claimant's written hearing request.
11. At the hearing, the record was extended to allow Claimant an opportunity to provide verification of her medical emergency.
12. Claimant provided a letter from [REDACTED] Hospital certifying that Claimant was admitted to [REDACTED] Hospital on [REDACTED] and discharged on [REDACTED]. (Exhibit 2, p. 1).

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. 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 testified that she could not remember why she did not initially attend work first on 3/9/09. Claimant also testified that she attempted to attend on 3/16/09 but was not allowed in. Claimant testified that she did not attend on 3/23/09 because her usual ride did not go to Work First that day. Claimant did not have a reason why she did not call in to her caseworker on 3/23/09 regarding her lack of transportation. The Administrative Law Judge finds that Claimant does not meet any of the definitions of good cause for missing the 3/9/09 or 3/23/09 Work First Assignments and, therefore, a triage and first noncompliance were appropriate.

The Claimant also provided testimony, however, that on 3/30/09, she was a patient at [REDACTED] Hospital and was incapable of attending to her JET work requirements. In addition, Claimant provided documentation from [REDACTED] hospital supporting her testimony. Therefore, the undersigned finds that Claimant has shown good cause that Claimant was incapable of performing the JET requirements on 3/23/09 and the Department should not have closed out her FIP case.

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 and case closure, effective 4/7/09, shall be deleted.
2. The Department shall reopen Claimant's 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: 07/08/09

Date Mailed: 07/08/09

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:

