

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: 2009-23754  
Issue No: 1021  
Case No: [REDACTED]  
Load No: [REDACTED]  
Hearing Date:  
July 2, 2009  
Macomb 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 July 2, 2009. The Claimant appeared and testified. Mark Heitman, FIM and Tracy Wagner from Michigan Works appeared on behalf of the Department.

ISSUE

Whether the Department properly issued a negative action effective 1/10/09 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 who was referred to JET.
2. Claimant's son suffers from CLPD.

3. Claimant missed JET on 11/3/09 due to a child's doctor's appointment.
4. There was a triage by phone on 12/18/09 and good cause was found excusing Claimant for JET attendance on 11/3/09. (Exhibit 1).
5. Claimant was given a new start date of 1/5/09. Claimant failed to attend JET on 1/5/09.
6. Claimant testified that she took her son to the cardiologist on 1/5/09 which is why she missed JET. (Exhibit 4)
7. Claimant's FIP case was closed on 2/7/09 for failure to attend Work First.
8. On April 8, 2009, the Department received the Claimant's written hearing request.
9. 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. It also includes when the client has a debilitating illness or injury, or an immediate family member's illness or injury requires in-home care by the client. 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 date of the JET participation, she was taking her son to an appointment at the cardiologist. Claimant testified that if she tried to change the child's appointment, it may have been delayed 2-3 months. Given the child's cardio and pulmonary issues, the Claimant determined that she needed to attend the scheduled appointment. The Claimant produced a note from Children's hospital indicating that the child had an appointment and that Claimant was in attendance. The Administrative Law Judge finds that this meets the intent of the regulations as Claimant's child required Claimant to take him to the cardiologist. 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 2/7/09, shall be deleted.

2. The Department shall reopen the case as of the date of closure and supplement the Claimant with any lost benefits she was otherwise entitled to receive.

/s/  
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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:

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