

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: 2009-33641
Issue No: 1013
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
September 23, 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 August 13, 2009. The Claimant appeared and testified. Also present was Claimant's father, [REDACTED]. Constance Lyons, FIS and Lori Lindsey, FIM appeared on behalf of the Department.

ISSUE

Whether the Department properly closed Claimant's FIP case for a failure to comply with Work First requirements?

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.
2. Claimant is the guardian and sole caretaker of her disabled father. (Exhibit A).

3. The Department granted Claimant a 3 month deferral from Work First in order to care for her father.
4. Following the deferral, the Department notified Claimant that she needed to participate in Work First.
5. Claimant testified that her father has had a stroke, has left side paralysis and he cannot swallow or speak. Claimant provides care to her father by emptying the catheter bag, suctioning seven (7) times per day, crushing and flushing 35 medications daily and administering nebulizer breathing treatments. Claimant also takes her father to rehab 3 days/week (See Exhibit A).
6. As a result, Claimant did not appear at Work First.
7. Claimant's FIP benefits were terminated on 6/15/09 due to noncompliance.
8. On July 8, 2009, the Department notified Claimant of her noncompliance and a triage date of 7/16/09.
9. Claimant appeared for the triage; however, no good cause was found and Claimant's case was closed.
10. On August 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 the following:

1. Client is employed 40 hours per week and earning minimum wage;
2. Client is physically or mentally unfit for the job or activity as shown by medical evidence or other reliable information;
3. Illness or injury for client or family member;
4. Failure by the Department to make reasonable accommodation for Client's disability;
5. No appropriate, suitable, affordable and reasonably close child care;
6. No transportation;
7. Unplanned event such as domestic violence, health or safety risk, religion, homelessness, jail or hospitalization;
8. Long commute.

PEM 233A, pp. 3-4.

Illness or injury for Client or family member is described further in BEM 230A where policy states that a spouse or parent who provides care for a spouse or child with disabilities

living in the home should not be referred to JET. This requires that a doctor verify all of the following in writing:

1. The spouse/child with disabilities requires a caretaker.
2. The spouse/parent is needed in the home to provide care.
3. The spouse/parent cannot engage in an employment-related activity due to the extent of care required.

BEM 230A, p. 18.

In present case, Claimant provided evidence that she is the legal guardian of her father. The regulations imply that good cause can only be found if Claimant is providing care to a sick child or spouse. However, Claimant has full guardianship over her father. Therefore, she has the same responsibilities for her father as she would over a minor child. Claimant is responsible for providing for and taking care of the legally incapacitated individual. Furthermore, a doctor has indicated that Claimant's father needs in home care to the extent that Claimant cannot work. Therefore, the Administrative Law Judge finds that Claimant has good cause for not attending Work First.

Accordingly, based upon the foregoing facts and relevant law, it is found that the Department's determination is REVERSED.

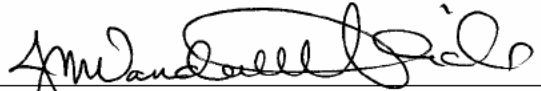
DECISION AND ORDER

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 7/16/09 negative action for noncompliance, resulting in the closure of 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.



Jeanne M. VanderHeide
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 10/12/09

Date Mailed: 10/13/09

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:

