

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.: 2009-35415

Issue No.: 1038

Case No.: [REDACTED]

Load No.: [REDACTED]

Hearing Date:

October 14, 2009

Wayne County DHS (73)

ADMINISTRATIVE LAW JUDGE: Michael J. Bennane

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9; MSA 16.409 and MCL 400.37; MSA 16.437 upon the Claimant's request for a hearing. After due notice, a telephone hearing was held on October 14, 2009. The Claimant personally appeared and testified.

ISSUE

Did the Department properly close the claimant's Family Independence Program (FIP)?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material and substantial evidence on the whole record, finds as material fact:

1. The claimant was an ongoing FIP recipient.
2. The claimant was required to participate in job related activities.
3. On March 31, 2009, the department placed the claimant's FIP into negative action for noncompliance with Jobs Education and Training (JET).

4. On April 9, 2009, the claimant attended the triage and told the department that she was working but had not been paid since January, 2009, because she had medical problems.
5. On April 9, 2009, the claimant signed a “first noncompliance letter” stating that she would attend JET on April 13, 2009, and participate in JET as required. (Department exhibit 1).
6. On April 15, 2009, JET found the claimant not compliant.
7. On April 21, 2009, the department closed the claimant’s FIP.
8. On May 28, 2009, the Claimant filed a request for a hearing.

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).

In the instant case, the Claimant failed to comply with JET requirements.

Short-Term Incapacity

Defer persons with a mental or physical illness, limitation, or incapacity which is expected to last less than three months and which prevents participation. Defer for up to three months.

Verify the short-term incapacity and the length of the incapacity using a DHS-54A, Medical Needs form or other written statement from an MD/ DO. Set the medical review date in CIMS accordingly, but not to exceed three months. (PEM 230A, pp. 11-12)

And:

Defer persons with a mental or physical illness, limitation, or incapacity expected to last more than 90 days and preventing their participation in employment-related activities. Clients in this category may be referred to Michigan Rehabilitation Services (MRS) or the Commission for the Blind for consultation and may be eligible for ongoing services from those agencies. This includes:

An individual with low intellectual capacity or learning disabilities that impede comprehension and prevent success in acquiring basic reading, writing, and math skills, including, but not limited to, an individual with an intelligence quotient less than 80.

An individual with documented chronic mental health problems that cannot be controlled through treatment or medication.

An individual with physical limitations on his or her ability to perform routine manual labor tasks, including, but not limited to, bending or lifting, combined with intellectual capacity or learning disabilities....

If the verification indicates the disability will last longer than 90 days:

Set the employment code to IN in ASSIST.

Enter medical review date for a three-month follow up.

Have the client sign a DHS-1555E, Release of Information.

Request a consultation from MRS or the Commission for the Blind, whichever is appropriate by completing Section I on a DHS-517, Consultation Request form. Note any reasonable accommodations that MRS should provide to ensure that the client has an equal opportunity to benefit from the referral. FIS will:

- Attach all medical and vocational documentation available in the case record.
- Check SOLQ and complete the information on status of RSDI/SSI claim (if any).
- Attach a copy of the DHS-1555E.

Use locally established procedures for referral to the MRS that services your local office.

The MRS or the Commission for the Blind consultation must be requested before FIP can be opened or redetermination can be certified. Once the consultation has been requested FIP may be opened. The FIS must follow up with the consultation and take appropriate action when the response is received.

Discuss with your client the expectations of adult FIP clients who claim a disability. Inform client if they expect to be disabled longer than 90 days they may be receiving an appointment to talk to a counselor from MRS or the Commission for the Blind, which they will be required to attend instead of going to JET.

Consultation Response

Within 45 days of the request MRS or the Commission for the Blind will:

Schedule an appointment with the client.

Complete a consultation.

Complete Section II of the DHS-517 and send back to the FIS with their recommendation.

DHS Action on Returned DHS-517

When the DHS-517 is returned, take action depending on the response as indicated below:

Client did not appear for appointment.

Follow Noncompliance with Employment and/or Self-Sufficiency-Related Activities in PEM 233A.....

Client does not feel they are capable of employment at this time.

Employment code remains IN in ASSIST.

Set Medical Review Date for three-month follow up.

Request a utilization report (UT) from the program office. See Request a Utilization Report later in this section.

Obtain a medical determination from MRT. Follow instructions in PAM 815, Medical Determination and Obtaining Medical Evidence.

On the DHS-49A, Medical-Social Eligibility Certification, under program, check JET.

Complete the DHS-49-A-E, Medical Assessment For JET Participation Project and attach to the top of the client's medical packet.

MRT Decision

Take action below that pertains to the decision rendered by the MRT.

ALL DECISIONS REVIEW the medical records and information provided by MRT to determine what accommodations, other than deferral from JET, the client needs to be able to benefit from the FIP program and to pursue employment and or self-sufficiency related activities. Follow the procedure for accommodating disabilities in [Reasonable Accommodation](#) in this item.

Disabled: The client is potentially eligible for RSDI/SSI. Verify the client's status with LSAM and SSA.

Employment code remains IN in ASSIST

Require the client to apply for RSDI/SSI if they have not already done so. Refer the client to SSA using form DHS-1552, Verification of Application or Appeal for SSI/RSDI.

When the client has an application pending with SSA and the client is not active with LSAM, the FIS must monitor the RSDI/SSI claim by setting the medical review date for a three month follow up. (PEM 230A, pp. 12-16)

In the instant case the claimant admits that she stopped going to JET but claims a medical reason for her absence. The record shows that the medical needs form submitted shows the claimant able to do any job. The claimant states that she is presently "in the process" of continuing to document her inability to perform work related activities. This ALJ finds that the claimant has failed to show that she is unable to attend JET due to medical conditions.

This ALJ finds that the department correctly denied the claimant's FIP due to the claimant's lack of compliance with work related activities.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, AFFIRMS the Department's action in the instant case.



Michael J. Bennane
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 12/4/09

Date Mailed: 12/4/09

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 receipt 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.

MJB/jlg

cc:

