

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: 2009-12913
Issue No: 1013
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
March 26, 2009
Montcalm 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 [REDACTED] on March 26, 2009. The Claimant appeared and testified along with her boyfriend, [REDACTED] b. Richard Stillson, FIM appeared on behalf of the Department.

ISSUE

Whether the Department properly issued a negative action effective 2/3/09 on Claimant's FIP case for a failure to attend JET training?

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 has an active FIP case for a group which includes her boyfriend, [REDACTED].
[REDACTED]
2. [REDACTED] indicated that he was disabled and unable to work and his case was sent to MRT for evaluation on 10/21/08. (Exhibit, p. 2).

3. Following a determination by MRT that [REDACTED] was not disabled on (Exhibit 1, p. 40), he was referred to a JET orientation on 1/21/09.
4. [REDACTED] testified that he was unable to attend the JET orientation due to medical impairments. [REDACTED] testified that he was attending physical therapy at the time of the JET orientation and that he would have been unable to sit through the entire training with neck and back pain.
5. [REDACTED] supplied medical records to document his impairments. (Exhibit 1, pp. 15-32).
6. [REDACTED] also testified that he is scheduled for surgery a C4-5 and C5-6 fusion on 4/20/09.
7. A notice of noncompliance was issued on 1/22/09 (Exhibit 1, p. 37).
8. The Claimant and [REDACTED] testified that they attended a triage meeting with the Department caseworker on 2/2/09 and the Department determined that there was no good cause for missing the JET orientation. (Exhibit 1, p. 39).
9. On February 2, 2009, the Department received the Claimant's written hearing request.
10. 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. 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 [REDACTED] provided credible testimony that, on the date of the JET orientation, he was physically incapable of attending the JET orientation. [REDACTED] testified that he suffers from degenerative arthritis and spinal stenosis which have caused nerve damage in his wrist and elbow. [REDACTED] testified that he has difficulty sitting for any period of time due to degenerative arthritis that causes pain and muscle spasms in his low back. [REDACTED] testified that he was attending physical therapy at the time of the JET program and that he was not able to sit through the JET training due to his impairments. Therefore, the undersigned finds that Claimant has shown good cause that [REDACTED] was physically incapable of attending the JET hearing.

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 1/22/09 negative action for noncompliance shall be deleted.
2. The Department shall 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: 04/08/09

Date Mailed: 04/10/09

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:

