

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: 2009-14444

Issue No: 1013

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

April 8, 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 April 8, 2009. The Claimant appeared and testified. Connie Bennett, FIA Case Manager and Maryann Tubbs, FIM appeared on behalf of the Department.

ISSUE

Whether the Department properly issued a negative action effective 2/21/09 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 a FIP recipient with a most recent certification on 8/1/06.
2. Claimant indicated that he was disabled and unable to work and his case was sent to MRT for evaluation on 12/9/08 (Exhibit 1, p. 37).

3. Following a determination by MRT that Claimant was able to work with limitations (Exhibit 1, p. 7), Claimant was referred to Work First on 2/2/09. (Exhibit 1, p. 5).
4. Claimant testified that he was unable to attend Work First due to medical impairments including hepatitis C, irregular heartbeat, diabetes, hypertension, depression, rotator cuff tear right shoulder, lumbar disc prolapse with radiculopathy, peripheral neuropathy, emphysema and CPLD.
5. Claimant supplied medical records to document his impairments. (Exhibit 2, pp. 3-6, Exhibit 1, pp. 15-35).
6. Claimant has a social security disability hearing pending.
7. Claimant testified that he has the following physical symptoms that prevent him from working:
  - a. Claimant passes out 3-4 times per week, cause uncertain.
  - b. Claimant has difficulty walking. He loses balance because of the neuropathy and uses a cane to ambulate.
  - c. Claimant has not had the right shoulder rotator cuff repaired because Claimant is concerned that it will cause a flare up in the hepatitis C and leave his daughter orphaned. The rotator cuff tear prevents Claimant from gripping or grasping with his left hand and lifting his arms above shoulder level.
  - d. Claimant has breathing difficulties.
8. Claimant also testified that his daughter has ADHD and requires supervision.

Claimant provided a letter from [REDACTED] which states:

[REDACTED] has been in treatment at our [REDACTED]. She has been treated by our psychiatrist [REDACTED]. [REDACTED] requires close supervision and intensive parenting as do her brother and sister who are also involved in family therapy sessions at our clinic. [REDACTED] is a single parent whose presence is required at all hours to care for these children with special needs to be sure that they have

the proper monitoring and behavioral interventions. (Exhibit 2, p. 2).

9. A notice of noncompliance was issued on 2/9/09 effective 2/21/09 (Exhibit 1, p. 3).
10. On February 17, 2009, the Department received the Claimant's written hearing request.
11. Claimant is currently 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 having an immediate family member with an illness or injury that 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 that he was required to appear for Work First, he was physically incapable of working. Claimant has doctor imposed limitations on walking; standing; sitting; lifting; using either foot and reaching, pushing, pulling or fine manipulating with his left hand. (Exhibit, pp. 15-16). Furthermore, Claimant has difficulty breathing as well as episodes of passing out due to uncontrolled diabetes. The undersigned finds that Claimant has shown good cause that he was physically incapable of attending Work First.

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 2/21/09 negative action for noncompliance shall be deleted.
2. The Department shall supplement the Claimant with any lost benefits he 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: 04/14/09

Date Mailed: 04/15/09

**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:

