

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.: 2009-19674
Issue No.: 1038
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
July 23, 2009
Oakland County DHS (04)

ADMINISTRATIVE LAW JUDGE: Colleen M. Mamelka

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 a hearing. After due notice, a hearing was conducted from Pontiac, Michigan on July 23, 2009. The Claimant appeared and testified. [REDACTED] appeared on behalf of the Department.

ISSUE

Whether Department properly terminated the Claimant's FIP case due to his failure to participate in the Jobs, Education, and Training ("JET") program?

FINDINGS OF FACT

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

1. The Claimant was a FIP recipient.
2. The Claimant informed the Department that he was unable to participate with the Jobs, Education, and Training ("JET") program due to his disabilities.

3. The Department forwarded the Claimant's medical records to the Medical Review Team for a disability determination.
4. On August 13, 2008, the MRT found the Claimant not disabled. (Exhibit 1)
5. As a result, the Claimant was instructed to report to the JET program.
6. The Claimant reported and was referred through Michigan Works! To the Michigan Rehabilitative Services ("MRS").
7. The Claimant failed to fully participate as required resulting in a triage. (Exhibit 2)
8. During the triage, the Claimant was given additional time in order to come into compliance.
9. On March 24, 2009, the Department was notified of the Claimant's second non-compliance. (Exhibit 3)
10. The Claimant informed the Department of transportation issues.
11. On April 6, 2009, the Department sent the Claimant a Notice of Non-compliance instructing him to attend the April 15, 2009 triage. (Exhibit 4)
12. On April 9, 2009, the Department pended the Claimant's FIP benefits for closure effective April 21, 2009. (Exhibit 6)
13. On April 9, 2009, the Department issued a check on behalf of the Claimant for the purchase of a vehicle.
14. On April 15, 2009, the triage was held resulting in a finding of no good cause for the Claimant's failure to participate. (Exhibit 5)
15. On April 13, 2009, the Department received the Claimant's written request for hearing. (Exhibit 6)

16. On April 16, 2009, the Department deleted the negative action due to the timely 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 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”).

DHS requires clients to participate in employment and self-sufficiency related activities and to accept employment when offered. PEM 233A The Family Self-Sufficiency Plan (“FSSP”) was created to allow DHS and other DHS client service providers to share information about mutual clients for optimal case management. PEM 228 The FSSP seeks to assist clients to achieve self-sufficiency, whenever possible, by identifying and removing barriers. PEM 228 All Work Eligible Individuals (“WEI”), unless deferred, are required to must engage in employment or participate in other approved activities. PEM 230A The WEI is considered non-compliant for failing or refusing to appear and participate with the Jobs, Education, and Training Program (“JET”) or other employment service provider. PEM 233A 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 Good cause must be verified and documented. PEM 233A Good cause exists when a client is physically or mentally unfit for the job or activity ash shown by medical evidence or other reliable information. PEM

233A Failure to comply without good cause results in FIP closure. PEM 233A The first and second occurrences of non-compliance results in a 3 month FIP closure. PEM 233A

Deferrals from JET participation are temporary. PEM 230A Short-term incapacity expected to last less than three months are deferred for up to three months. PEM 230A When verification for mental or physical illness, limitation, or incapacity indicates the disability will last more than three months, the employment code is set to IN; a Medical Review Date is entered for a three month follow up; the client is required to sign a release (DHS 1555E); and a request for a MRS consultation is made. PEM 230A

JET participants are not terminated from the program without first scheduling a triage meeting to discuss the non-compliance and good cause. PEM 233A Clients must comply with the triage requirements within the negative action period. PEM 233A Good cause is based upon the best information available during the triage and prior to the negative action date. PEM 233A Good cause may be verified by information already on file. PEM 233A If the client does not provide a good cause reason within the negative action period, good cause is determined based upon the best information available. PEM 233A

In this case, the MRT found the Claimant not disabled resulting in a JET referral. The Claimant failed to fully comply and the first triage was scheduled. The Department was aware of the Claimant's lack of transportation. During the triage, the Claimant was afforded additional time to comply with the program requirements. The Claimant agreed to the terms but again failed to fully comply due, in part, to transportation problems. The Department was notified of the non-compliance and second triage was scheduled. The Department also pended the Claimant's FIP benefits for closure in accordance with policy. Prior to the second triage, but after the non-compliance, a check was issued on behalf of the Claimant for the purchase of a

vehicle. During the second triage, the Claimant stated he complied as best as he could but because of his purported disability and transportation issues he was unable to fully comply. The Department was not completely clear as to the specifics regarding the non-compliance however no good cause was found. Ultimately, under the facts presented, the Department established it acted in accordance with policy however, good cause is found for the non-compliance due to transportation issues which the Claimant informed the Department of (as evident by the check issued for the purchase of a vehicle). Accordingly, the Department's actions are not upheld.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department's actions are not upheld.

Accordingly, it is ORDERED:

1. The Department's determination to terminate the Claimant's FIP benefits is REVERSED.
2. The 3-month sanction is not imposed.
3. The Department shall reinstate the Claimant's FIP benefits from the closure date (if not already done so) and supplement the Claimant for any lost benefits (if any) he was otherwise entitled to receive.

/s/

Colleen M. Mamelka
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 08/05/09

Date Mailed: 08/06/09

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

2009-19674/CMM

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.

CMM/jlg

cc:

