

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: 2009-20697  
Issue No: 1021  
Case No: [REDACTED]  
Load No: [REDACTED]  
Hearing Date:  
July 13, 2009  
Oakland 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 July 13, 2009. The Claimant appeared and testified. Angelique Wimbush, JET Case Manager and Anita Fudge, MRS appeared on behalf of the Department.

ISSUE

Whether the Department properly issued a negative action effective 4/21/09 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 was an active FIP recipient.

2. Following a determination by MRT that Claimant was not disabled, in June of 2008, Claimant was referred to Michigan Rehabilitation Services (“MRS”).
3. The Department indicated that Claimant refused to work with MRS and, therefore, was referred back to Work First.
4. Claimant last date to attend JET orientation was 3/27/09. Claimant did not attend. (Exhibit 1, p. 1).
5. On 4/6/09, the Department mailed Claimant a notice of noncompliance with a scheduled triage date of 4/16/09. (Exhibit 1, p. 5).
6. Claimant appeared at the triage and supplied the Department with a DHS 54 “Medical Needs Form” indicating that she could not work for a year beginning January 2009. (Exhibit 1, p. 8).
7. The Department determined that there was no good cause for Claimant not to attend JET and closed Claimant’s case effective 4/21/09. (Exhibit 1, p. 7).
8. On April 29, 2009, the Department received the Claimant’s written hearing request.
9. 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 Claimant provided credible testimony that, on the date of the JET participation, she was experiencing low back and left knee pain due to arthritis. Claimant testified that she receives cortisone shots for the pain. The pain limits the amount of time that she is able to sit or stand. Claimant's representative indicated, however, that Claimant is able to participate in some elements of Work First. Claimant produced a Medical Needs form, signed by her treating physician, indicating that Claimant should not be working for a year following 1/22/09. (Exhibit 1, p. 8). It should be noted, however, that the Medical Needs form is virtually the same as one that was issued on 3/14/08 and which would have been considered by MRT in

making its decision. (Exhibit 1, p. 19). Furthermore, Claimant's representative admitted that limitations imposed by Claimant's doctor were excessive given Claimant's physical impairment.

It is hard for the undersigned to evaluate the extent of Claimant's physical impairment at the time of the required JET participation as there are no physical examination results, test results or doctor reports included other than a blanket statement that Claimant cannot work. A statement by a medical source finding that an individual is "disabled" or "unable to work" does not mean that disability exists for the purposes of the social security disability. 20 CFR 416.927(e). Nor should it mean that Claimant is disabled for the purposes of federal programs operating in Michigan.

Claimant testified that she refused to attend MRS any longer because she was only referred to jobs that she was unable to perform. The Department testified, however, that MRS found Claimant a receptionist job that would allow Claimant to sit and stand and would provide her with training. However, Claimant chose not to attend. Rather, Claimant was referred back to Work First which she also did not attend. Claimant chose not to attempt any type of activity and now asks that good cause be found as Claimant was relying on her doctor's note to not attempt any work.

This Administrative Law Judge finds that while Claimant's testimony that she was in pain is believable; it is not documented by sufficient evidence as to meet the standard of good cause for being physically unfit for the particular activities. Claimant was relying on her doctor's instructions, yet she was already told that it was insufficient evidence to support a disability. Therefore, based upon the foregoing facts and relevant law, it is found that the Department's determination is AFFIRMED.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds the Department's determination is upheld.

Accordingly, it is ordered that the Department's negative action for noncompliance, effective 4/21/09, is AFFIRMED.

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

Date Signed: 08/05/09

Date Mailed: 08/10/09

**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

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