

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: 2009-23052
Issue No: 1021
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
June 24, 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 June 24, 2009. The Claimant appeared and testified. Dayna Anderson, FIM appeared on behalf of the Department.

ISSUE

Whether the Department properly denied Claimant's Family Independence Program ("FIP") benefits 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 applied for FIP benefits on February 24, 2009.
2. Claimant was referred for JET orientation on 3/16/09 and 3/23/09. (Exhibits 3-4).
3. Claimant did not appear for either appointment despite having received the notices.

4. Claimant testified that he was sick on the dates of the appointments and presented to the emergency room where he was diagnosed with chronic bronchitis, pneumonia, and now, lung cancer.
5. Claimant produced medical records showing an ER admission date of [REDACTED]. (Exhibit A).
6. Claimant was denied benefits for noncompliance with the JET program on 3/26/09 (Exhibit 6).
7. On May 11, 2009, the Department received the Claimant's written 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 (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 testified that he was physically ill at the time of the JET appointments which resulted in the Claimant presenting to the emergency room on [REDACTED]. Claimant was diagnosed with bronchitis at that time. Claimant returned to the ER on [REDACTED] and at which time his diagnosis was changed to pneumonia. Several months later, Claimant has now been diagnosed with a cancerous mass on his lung.

While the undersigned sympathizes with Claimant for his current medical condition, the focus of this hearing was whether Claimant was capable of attending the JET orientations. The Administrative Law Judge finds that the [REDACTED] ER visit is too attenuated from the 3/16/09 JET appointment without additional medical records indicating that Claimant was suffering from symptoms at the time of the JET appointment. However, the undersigned also finds Claimant's testimony that he could not attend JET due to coughing and chest pain three days before his ER visit credible. This is bolstered by Claimant's testimony that he did not have a ride to the ER at an earlier date. Therefore, the undersigned finds that Claimant has shown good cause that he was physically incapable of performing the JET requirements on 3/24/09. Claimant should, therefore, be given another appointment for JET orientation. If Claimant is physically unable to work at this time due to cancer treatment, he is entitled to request a medical deferment.

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 negative action for noncompliance, effective 3/26/09, shall be deleted.
2. The Department shall reopen and reprocess Claimant's FIP case from the date of closure and supplement the Claimant with any lost benefits he was otherwise entitled to receive.

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

Date Signed: 07/01/09

Date Mailed: 07/02/09

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:

