

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: 2009-28828
Issue No: 1021
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
August 12, 2009
Macomb 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 August 12, 2009. The Claimant's Husband, [REDACTED], appeared and testified. Deborah Martin, Case Manager and Stephanie Hubs, MI Works Agency Representative, appeared on behalf of the Department.

ISSUE

Whether the Department properly issued a negative action effective 6/10/09 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. Claimant's husband was a mandatory JET participant, who appeared at the hearing and will be referred to as Claimant throughout this opinion.

3. The Department indicated that Claimant was not compliant with JET because he missed the following hours:
 - 5/13/09, 2 hours
 - 5/15/09, 2 hours
 - 5/22/09, 2 hours
 - 5/27/09, 5/28/09 and 5/29/09 missing logs b/c turned in late (4, 6, 6 hours)
4. Claimant testified that he was unable to participate in JET work activities the on May 13, 2009 or May 15, 2009 due to his daughter breaking her arm.
5. Claimant testified that he was unable to participate in JET work activities on July 28, 2009 or July 29, 2009 as he was ill. Claimant produced a note signed by the doctor indicating the same for 7/28/09 and 7/29/09. (Exhibit 2).
6. There was no notice of noncompliance in the hearing packet.
7. Claimant indicates in his hearing request that he attended a triage on 6/10/09. (Exhibit 1, p. 4).
8. On June 16, 2009, the Department terminated Claimant's FIP benefits for noncompliance with JET.
9. On June 25, 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. It also includes when the client has a debilitating illness or injury. 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 May 28 and 29, 2009, he was physically ill and has provided a doctor note indicating the same. Therefore, the undersigned finds that Claimant has shown good cause that Claimant was suffering from a debilitating illness on 5/28/09 and 5/29/09. As good cause excuses the hours missed on these two days, Claimant would have then missed only 6 hours within the specified month and was still under the number of allowed missed hours.

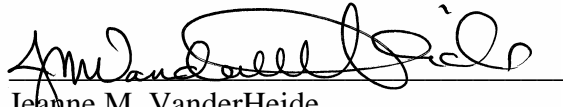
Based upon the foregoing facts and relevant law, it is found that the Department's determination is REVERSED.

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 6/16/09, shall be deleted.
2. The Department shall reopen Claimant's case as of the date of closure, 6/19/09 and supplement the Claimant with any lost benefits he was otherwise entitled to receive.


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

Date Signed: 09/09/09

Date Mailed: 09/11/09

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:

