

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. 2009-31446
Issue No. 1038
Case No. [REDACTED]
Load No. [REDACTED]
Hearing Date:
September 10, 2009
Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Colleen Lack

HEARING DECISION

This matter is before the undersigned Administrative Law Judge upon pursuant to MCL 400.9; MCL 400.37 upon claimant's request for a hearing. After due notice, a telephone hearing was held on September 10, 2009 and claimant was not represented. Joyce Bacalis, FIM, and Ken Swaitkowski, FIM, appeared on behalf of the department.

ISSUE

Is the Department's proposed closure of claimant's Family Independence Program (FIP) benefits case for non-compliance with employment related activities proper?

FINDINGS OF FACT

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

1. Claimant was an ongoing recipient of FIP benefits who indicated she had a disability and was unable to work or participate in the JET program.
2. On April 30, 2009 the department referred claimant's case to the Medical Review Team (MRT) for an assessment.

3. On May 4, 2009 the MRT issued a determination that claimant was “not disabled-work ready with limitations” for JET participation. (Department Exhibit 1 pg. 1)
4. On June 26, 2009 the department referred claimant to the JET program providing an appointment notice for a July 6, 2009 Work First/JET appointment.
(Department Exhibit 2 pg. 2)
5. Claimant did not attend the July 6, 2009 appointment.
6. On July 21, 2009 the Department issued a Notice of Noncompliance for failure to attend Work First and provided notice of a July 29, 2009 appointment to discuss the noncompliance determination. (Department Exhibit 2 pg. 3)
7. Claimant attended the July 29, 2009 appointment and requested a hearing because she did not agree with the noncompliance determination. (Department Exhibit 2 pg. 4)
8. On July 29, 2009 the department issued a second Work First/JET appointment notice for an August 3, 2009 appointment. (Department Exhibit 2 pg. 5)
9. Claimant did not attend the August 3, 2009 appointment.
10. The department proposes a closure of the FIP benefits for failure to participate in the Work First/JET program.
11. Claimant’s FIP benefits have remained open pending the hearing.

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 (DHS or Department) administers the FIP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3101-3131. The FIP program replaced the Aid to Dependant 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).

The Family Independence Program (FIP) provides temporary cash assistance to support a family's movement to self-sufficiency. The recipients of FIP engage in employment and self-sufficiency-related activities so they can become self-supporting. Federal and State laws require each work eligible individual (WEI) in the 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. These clients must participate in employment and/or self-sufficiency related activities to increase their employability and obtain stable employment. PEM 230A.

JET is a program administered by the Michigan Department of Labor and Economic Growth (DLEG) through the Michigan Works Agencies (MWAs). The JET program serves employers and job seekers for employers to have skilled workers and job seekers to obtain jobs that provide economic self-sufficiency. PEM 230 A. A mandatory participant in the JET program who fails without good cause to participate in employment activity must be penalized. PEM Manual Item 233(a). The penalty for the first occurrence of noncompliance in the JET program is a closure for a minimum of three calendar months under the FIP program. PEM Manual Item 233(a). Good cause is a valid reason for noncompliance with employment related activities. A claim of good cause must be verified and documented for applicants, members, and recipients. PEM Manual Item 230(a), PEM Manual Item 230(b); 7 CFR Parts 272 and 273.

In the present case, claimant was an ongoing recipient of FIP benefits who reported to the department that she was disabled due to mental illness and was unable to work or participate in the JET program. The department referred the case to the MRT and received a determination that claimant was not disabled with limitation to unskilled work for JET participation.

(Department Exhibit 1 pg. 1) The department then issued claimant a Work First/JET appointment notice for July 6, 2009. (Department Exhibit 2 pg. 2) Claimant did not attend the appointment. A second Work First/JET appointment was scheduled for August 3, 2009, and claimant did not attend. (Department Exhibit 2 pg. 5)

Claimant testified she has been out of the work force for almost three years due to her mental illness and is currently assisted by her roommate with household chores and activities of daily living. Claimant testified she is nervous about trying to participate in the JET program because she is afraid she will harm herself or others. Claimant testified she did not believe she had to participate in the JET program because of the documentation submitted by her psychologist indicating she can not work and because at a prior Michigan Rehabilitation Services appointment, she was told she could not participate until her doctor released her.

A [REDACTED] Michigan Rehabilitation Services (MRS) Consultation Request notes that claimant's doctor reported that claimant "is unable to work at this time due to her disability." (Department Exhibit 2 pg. 7) A [REDACTED] Medical Needs report from the mental health treatment provider was included. This report indicated that claimant suffers from bipolar disorder, would not be able to work at any job for more than 1 year and could possibly participate in MRS in six months to one year. (Department Exhibit 2 pg. 9)

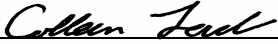
The record also contains documentation from the treating psychologist dated [REDACTED] [REDACTED] that claimant suffers from bipolar disorder. (Department Exhibit 1 pg. 14) The Mental Residual Functional Capacity Assessment completed the same date notes several areas of moderate limitations as well as marked limitations in the abilities to sustain an ordinary routine without supervision and to per perform activities within a schedule, maintain regular attendance, and be punctual within customary tolerances. (Department Exhibit 1 pg. 15)

Based upon the foregoing facts and relevant law, it is found that the claimant had good cause for not attending the Work First/JET appointments. Claimant was too ill to attend the Work First/JET appointments.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the claimant had good cause for not attending the Work First/JET appointments.

Accordingly, the Department's FIP eligibility determination is REVERSED. Therefore it is ORDERED that the claimant's FIP benefits remain open, without penalty, in accordance with this decision.



Colleen Lack
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 10/02/09

Date Mailed: 10/05/09

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.

CL/dj

cc:

