

[REDACTED]

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.: 2009-4451

Issue No.: 1005

Case No.: [REDACTED]

Load No.: [REDACTED]

Hearing Date:

February 5, 2009

Bay County DHS

ADMINISTRATIVE LAW JUDGE: Michael J. Bennane

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9; MSA 16.409 and MCL 400.37; MSA 16.437 upon the Claimant's request for a hearing. After due notice a telephone hearing was held on February 5, 2009. The Claimant personally appeared and testified.

ISSUE

Did the Department properly close the Claimant's Family Independence Program (FIP)?

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 is a FIP recipient.
2. On September 19, 2008, the Medical Review Team MRT determined that the Claimant was capable of performing work related tasks.
3. On September 23, 2008 the Department sent the Claimant a Jobs Education and Training (JET) appointment for October 6, 2008.

4. On October 6, 2008, the Claimant attended JET but contacted the Department saying that she could no longer attend JET.
5. On November 6, 2008, the Department conducted a telephone triage at which it found no good cause for the Claimant's absence from JET.
6. On November 8, 2008, the Claimant filed a request for a 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 (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).

NONCOMPLIANCE WITH EMPLOYMENT AND/OR SELF-SUFFICIENCY-RELATED ACTIVITIES

As a condition of eligibility, all WEIs and non-WEIs must work or engage in employment and/or self-sufficiency-related activities. **Noncompliance** of applicants, recipients, or member adds means doing **any** of the following **without** good cause:

Do not apply the three or 12 month penalty to ineligible caretakers, clients deferred for lack of child care (DC) and disqualified aliens. Failure to complete a FAST or FSSP results in closure due to failure to provide requested verification. Clients can reapply at any time.

Failing or refusing to:

Appear and participate with the Jobs, Education and Training (JET) Program or other employment service provider.

Complete a Family Automated Screening Tool (FAST), as assigned as the first step in the FSSP process.

FIS should clear the FAST Fall Out Report and any FAST confirmation information the client has obtained before considering a client noncompliant for FAST non-completion.

Develop a Family Self-Sufficiency Plan (FSSP) or a Personal Responsibility Plan and Family Contract (PRPFC).

FIS must have scheduled a FSSP completion appointment with the client and the client failed to attend before considering a client noncompliant for FSSP non-completion.

Comply with activities assigned on the Family Self Sufficiency Plan (FSSP).

Provide legitimate documentation of work participation.

Appear for a scheduled appointment or meeting related to assigned activities.

Participate in employment and/or self-sufficiency-related activities.

Accept a job referral.

Complete a job application.

Appear for a job interview (see the exception below).

Stating orally, or in writing, a definite intent not to comply with program requirements.

Threatening, physically abusing or otherwise behaving disruptively toward anyone conducting or participating in an employment and/ or self-sufficiency-related activity.

Refusing employment support services if the refusal prevents participation in an employment and/or self-sufficiency-related activity. (PEM233A pp. 1-2).

In the instant case, the Claimant supplied the Department with medical documentation that was sent to the MRT. The MRT found that the Claimant was capable of work related activities and the Department sent the Claimant to JET. The Claimant attended JET on the first assigned day but experienced extreme pain while there and notified the Department of her inability to return to JET. She did not in fact return to JET after October 6, 2008. The Department found the Claimant in noncompliance and moved to close her FIP.

During a telephone triage the Department found no good cause for the Claimant's lack of attendance at JET.

GOOD CAUSE FOR NONCOMPLIANCE

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. A claim of good cause must be verified and documented for applicants, member adds and recipients. (PEM 233A, p. 3).

While the Department is correct that the decision by MRT cannot be the basis for a hearing; the existence of good cause can be such a basis. The undersigned finds that the Claimant's documented physical limitations constituted good cause for her absence from JET.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, REVERSES AND ORDERS the Department accept the Claimant's documentation as proof of good cause for her absence from JET.

/s/

Michael J. Bennane
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 03/19/09_____

Date Mailed: 03/20/09_____

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 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.

MJB/jlg

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