

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: 20102269

Issue No: 1021

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

December 10, 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 December 10, 2009. The Claimant appeared and testified. Robin Grimes, FIS appeared on behalf of the Department.

ISSUE

Whether the Department properly issued a negative action effective 9/17/09 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 applied for FIP benefits and was referred to JET. Claimant began Work First on 8/10/09.

2. Claimant testified that she was in a car accident on [REDACTED] and went to the emergency room because she hit the steering wheel.
3. Claimant further testified that she did not attend Work First on 9/15/09 and 9/16/09 because she could not get out of bed.
4. Claimant indicated that she turned in documents supporting her medical absence to a worker at Work First.
5. No one from JET was available to testify at the hearing.
6. The JET case notes indicate that Claimant exceeded hours for September due to time missed from car accident, 9/14/09 – 9/16/09. (Exhibit 1).
7. As a result, Claimant was found ineligible for FIP benefits and was terminated by the system on 9/17/09 for excessive absences.
8. On September 29 2009, the Department received the Claimant's written hearing request.
9. The record was left open to allow Claimant to obtain medical records from the Emergency room. Said records were submitted and are attached as Exhibit 2.

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)/Bridges Administrative Manual (BAM), the Program Eligibility Manual (PEM)/Bridges Eligibility Manual (BEM) 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. BEM/BEM 230A. All work eligible individuals who fail, without good cause, to participate in employment or self-sufficiency-related activities will be penalized. BEM/PEM 233A. Failure to appear at a JET program results in noncompliance. Id. JET participation may be interrupted by occasional illness or unavoidable event. Accordingly, absences may be excused up to 16 hours in a month. BEM/PEM 230A, p. 22.

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. BEM/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 or having 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 [REDACTED] she was suffering from injuries from an automobile accident. Claimant's testimony is supported by medical documentation showing that Claimant was an unrestrained driver in an automobile accident on [REDACTED] causing her to hit the steering wheel. She was admitted to the ER at 10:39 p.m. and was discharged on [REDACTED] with a diagnosis of lumbar sprain and chest wall contusion and prescriptions for Ibuprofen 600 mg and Metaxalone 800 mg. The undersigned finds it reasonable that Claimant would have been unable to attend Work First on 9/15/09 or 9/16/09.

Claimant, therefore, has shown good cause for those two days that she was physically incapable of performing the JET requirements. However, Claimant had only lost 3 hours previously in September, so even without good cause for 9/14/09, Claimant is under the allowable unexcused absences.

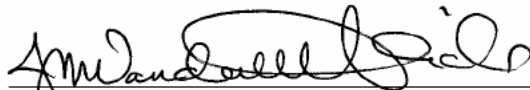
Based upon the foregoing facts and relevant law, it is found that the Department's determination is REVERSED.

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 10/1/09, shall be deleted.
2. The Department shall reinstate Claimant's FIP case from the date of termination, 9/17/09 and supplement the Claimant with any lost benefits she was otherwise entitled to receive.



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

Date Signed: 12/23/09

Date Mailed: 01/08/10

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:

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