

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: 2010-15403
Issue No: 1000
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
April 22, 2010
Wayne County DHS (35)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

ORDER OF DISMISSAL

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9; and MCL 400.37 upon claimant's request for a hearing. After due notice, a telephone hearing was held on April 22, 2010 in Detroit, Michigan. The Claimant appeared and testified on her own behalf. Jocelyn Steward, FIS Jet and Katherine Beeny, FIM appeared on behalf of the Department.

ISSUE

Is the Claimant entitled to a hearing regarding the Medical Review Team denial of her deferral from the JET program?

Does the Administrative Law Judge have jurisdiction to hear this matter?

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 filed a request for hearing on January 4, 2010 to review why she was not deferred from the JET program by the MRT team.
- (2) On January 4, 2010, the Department advised the Claimant that she was required to attend the JET program.
- (3) There was no negative action on which claimant could request a hearing, as the Department has not issued a notice of case action denying the Claimant's FIP benefits.

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 Dependent Children (ADC) program effective October 1, 1996. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM).

Under Bridges Administrative Manual Item 600, clients have the right to contest any negative agency decision affecting eligibility or benefit levels whenever they believe the decision is illegal.

Family Independence Program (FIP) and Refugee Assistance Program (RAP) eligible adults and 16 and 17-year-olds not in high school full-time must be referred to the Jobs Education and Training (JET) program or other employment service provider, unless 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 to find employment. BEM 230A, page 1. A cash recipient who refuses, without good cause, to

participate in the assigned employment and/or self -- sufficiency -- related activities is subject to penalties. BEM 230A, page 1.

The Claimant requested the hearing with the intent of requesting a ruling regarding the appropriateness of the Claimant's denial of a medical JET deferral by the MRT. Unfortunately, the undersigned has no jurisdiction regarding the denial of the deferral. BAM 600 states that SOAHR may grant a hearing about any of the following:

- denial of an application and/or supplemental payments
- reduction in the amount of program benefits or service.
- Suspension or termination of program benefits or service.
- Restrictions under which benefits are services are provided.
- Delay of any action beyond standards of promptness.
- For FAP only, the current level of benefits is denial of expedited service.

A denial of a deferral is not a negative action; it is simply a departmental determination as to the appropriateness of claimant for certain program classifications. Claimant's benefits were not yet affected and will not be until her failure to attend JET or other non compliance with the JET program requirements. Therefore, while an Administrative Law Judge has the power to decide whether or not claimant's medical problems would constitute good cause for nonparticipation in the JET program, and other work related activities, an Administrative Law Judge cannot rule as to whether the claimant should be classified in a certain manner.

It should be noted that should the claimant be returned to JET, the claimant is entitled to request a hearing if her benefits are terminated as a result of her nonparticipation in the JET program. At that time, claimant will be entitled to a determination as to whether she had good

cause on the day or days she was scheduled to attend Jet for her non attendance or her failure to participate or attend the program.

Unfortunately, the Administrative Law Judge did not discover that no negative action had been taken by the Department, and thus, that the administrative law judge did not have jurisdiction to hear the matter until after the conclusion of the hearing and further review of the file. As such, it is unnecessary for the Claimant to submit further medical documentation to the Department, and the record, accordingly, is not required to be held open as discussed at the hearing.

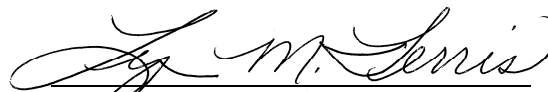
Until such time as the Department issues a notice of case action or takes a negative action, there is nothing for the Administrative Law Judge to decide.

As such, there being no negative Department action with regard to claimant's FIP case, and therefore, no basis for the Administrative Law Judge to consider the matter, Claimant's request for hearing must be dismissed for lack of jurisdiction.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that there is no jurisdiction to hear a case.

Accordingly, this case is, hereby, DISMISSED.



Lynn M. Ferris
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 04/27/10

Date Mailed: 04/27/10

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.

LMF/dj

cc:

