

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.: 20105059

Issue No.: 1021

Case No.: [REDACTED]

Load No.: [REDACTED]

Hearing Date:
March 8, 2010

Oakland 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 on September 8, 2009. After due notice, a hearing was conducted on March 8, 2010. The Claimant appeared and testified. [REDACTED], JET Coordinator appeared on behalf of the Department.

ISSUE

Whether the Department properly issued a negative action 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 who was assigned to JET along with his wife.
2. Claimant and his wife were required to participate a total of 35 hours without Child Dependent Care ("CDC") or 55 hours with CDC benefits.

3. The Department indicated that the Claimants failed to meet the hours of participation for the weeks of 5/31/09, 6/7/09 and 6/14/09. (Exhibit 1, p. 1).
4. A triage was scheduled for 7/15/09 which Claimant attended. Claimant's wife was excused from the triage.
5. Claimant indicated at the triage that he had medical issues and was given until 7/20/09 to return a medical needs form (DHS 54A).
6. The Department also required that Claimant to sign a "First Noncompliance Letter" indicating that Claimant was noncompliant without good cause. (Exhibit 1, p. 12).
7. Claimant testified that he had hurt his back while caring for his mother following her surgery and he was unable to participate in JET for the required hours.
8. At the hearing, Claimant provided a Medical Needs form dated August 3, 2009 which indicates that Claimant was disabled from working and was suffering from low back pain. (Exhibit 2).
9. Claimant's case was placed into negative action with an effective close date of 10/1/09 for noncooperation with JET when the medical needs form was not returned by 7/20/09.
10. On September 8, 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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables (RFT).

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 230A. All work eligible individuals who fail, without good cause, to participate in employment or self-sufficiency-related activities will be penalized. BEM 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. BEM 233A at 4. Good cause includes the following:

1. Client is employed 40 hours per week and earning minimum wage;
2. Client is physically or mentally unfit for the job or activity as shown by medical evidence or other reliable information;
3. Illness or injury for client or family member;
4. Failure by the Department to make reasonable accommodation for Client's disability;
5. No appropriate, suitable, affordable and reasonably close child care;
6. No transportation;
7. Unplanned event such as domestic violence, health or safety risk, religion, homelessness, jail or hospitalization;
8. Long commute.

BEM 233A, pp. 3-4. If it is determined during triage that the client has good cause, and good cause issues have been resolved, the Department is instructed to send the client back to JET. BEM 233A, p. 4. On the other hand, if a triage is held and the decision regarding the

noncompliance is *No Good Cause*, the Department is instructed to provide a DHS-754, First Noncompliance Letter, regarding sanctions that will be imposed if the client continues to be noncompliant. BEM 233, p. 8.

In this case, the Claimant provided testimony that he was unable to work on the dates in question for the required JET participation due to low back pain. Claimant's testimony is supported by a Medical Needs form, DHS 54A which is signed by Claimant's physician. Clearly the form was signed after the due date for the verification was due. However, the Department only gave Claimant five days to be examined by his doctor, have her fill out the form and return it to the Department. Moreover, Claimant testified that he was unaware he could get an extension if needed. The Administrative Law Judge finds that Claimant had good cause for missing Work First.

Good cause is a valid reason for missing Work First. At the triage, the Department had Claimant sign a "first noncompliance letter" indicating that even if he returned the Medical needs form he would have one incidence of noncompliance. Either Claimant was noncompliant or he had good cause and was complaint. Furthermore, there is no time line in the regulations for providing proof of good cause.


The undersigned finds that Claimant has shown good cause that he was physically incapable of performing the JET requirements due to a low back injury on the dates in question. 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 effective close date of 10/1/09 for FIP benefits is REVERSED.
2. Any Department negative action for noncompliance resulting from the 7/15/09 triage shall be deleted.
3. The Department shall reinstate FIP benefits as of the date of effective closure date, 10/1/09, 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: April 1, 2010

Date Mailed: April 1, 2010

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 60 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.

JV/hw

cc:

