

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.: 2009-14967

Issue No.: 1038

Case No.: [REDACTED]

Load No.: [REDACTED]

Hearing Date:

April 15, 2009

St. Clair County DHS

ADMINISTRATIVE LAW JUDGE: Colleen M. Mamelka

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon Claimant's Request for Hearing received by the Department on January 29, 2009. After due notice, a telephone hearing was conducted from Detroit, Michigan on April 15, 2009. The Claimant appeared and testified. Colleen Palazzolo and Theodore Setzer appeared on behalf of the Department.

ISSUE

Whether the Department properly terminated the Claimant's FIP benefits based upon non-compliance with Michigan Rehabilitation Services ("MRS").

FINDINGS OF FACT

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

1. The Claimant is a FIP recipient.

2. On September 30, 2008, the Department received a letter from [REDACTED], stating the Claimant had been scheduled for individual counseling to include psychiatric services. (Exhibit 1)
3. The Medical Needs form, dated September 30th, completed on behalf of the Claimant provided that the Claimant could work at her usual occupation and at any job. (Exhibit 2)
4. A second Medical Needs form completed on November 4, 2008 indicated the Claimant could work but with some limitations. (Exhibit 3)
5. As a result of the Medical Needs forms, the Claimant was referred to the [REDACTED]
[REDACTED]
6. The Claimant failed to attend the scheduled appointments on November 12, 2008 and January 9, 2009. (Exhibit 4)
7. On January 22, 2009, a Notice of Non-compliance was mailed to the Claimant instructing her to appear on January 29, 2009 for a triage. (Exhibit 5)
8. On January 24, 2009, the Claimant's benefits were pended for closure effective February 5, 2009. (Exhibit 7)
9. The Claimant received the notice but failed to call or attend the triage.
10. On January 28, 2009, the Department received the Claimant's written request for hearing protesting the proposed negative action. (Exhibit 7)

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 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”).

DHS requires clients to participate in employment and self-sufficiency related activities and to accept employment when offered. PEM 233A The Family Self-Sufficiency Plan (“FSSP”) was created to allow DHS and other DHS client service providers to share information about mutual clients for optimal case management. PEM 228 The FSSP seeks to assist clients to achieve self-sufficiency, whenever possible, by identifying and removing barriers. PEM 228 The Department can offer accommodations only if a disability is verified. PEM 230A Clients seeking accommodation or deferral may be required to attend appointments with the Michigan Rehabilitative Services (“MRS”), doctors, psychologists, or others to ensure that appropriate accommodations or deferrals are made. *Id.* An individual is required to engage in self-sufficiency and family strengthening activities even if deferred from the Jobs, Education, and Training (“JET”) or work activities and may be subject to penalties for failure to participate as required. *Id.* Individuals with mental or physical illness, limitation, or incapacity expected to last more than 90 days may be referred to MRS. *Id.* MRS offers vocational rehabilitative services to individuals with disabilities. *Id.* Individuals claiming disability may receive an appointment to speak to a counselor from MRS or the Commission for the Blind, which they are required to attend instead of going to JET. *Id.*

When an individual does not appear for a scheduled appointment, a notice of non-compliance, DHS-2444, which must include the date(s) of the non-compliance; the reason the client was determined to be non-compliant; and the penalty duration is sent to the client. *Id.*; PEM 233A, p. 8 In addition, a triage must be held within the negative action period. PEM 233A,

p. 8 A good cause determination must be made prior to the negative action effective date. PEM 233A, p. 8 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. PEM 233A, p. 3 Failure to comply without good cause results in FIP closure. PEM 233A, p. 5 The first and second occurrences of non-compliance results in a 3 month FIP closure. PEM 233A, pp. 5-6

In the record presented, the Medical Needs form provided that the Claimant could work with some limitations noted. As a result, the Department referred the Claimant to [REDACTED]. The Claimant received notification to attend two [REDACTED] appointments and testified that she contacted the [REDACTED] counselor about not being able to attend the first appointment. The Claimant failed to call or come in for the January 9, 2009 [REDACTED] appointment. The Claimant did not attend because of her claims of high blood pressure and anxiety. The Claimant received treatment subsequent to the second [REDACTED] appointment. The Claimant also acknowledged receipt of the Notice of Non-compliance yet she failed to call or come in for the scheduled triage. There was no communication between the Claimant and the Department during the relevant period at issue. Ultimately, the Department established it acted in accordance with Department policy when it referred the Claimant to [REDACTED] sent the Notice of Non-compliance; and pended the case for closure. The Department's actions are upheld.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department acted in accordance with Department policy when it pended the Claimant's FIP case for closure.

Accordingly, it is Ordered:

1. The Department's negative action notice is AFFIRMED.
2. The 3-month sanction for non-compliance is imposed.

/s/

Colleen M. Mamelka
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 04/15/09

Date Mailed: 04/15/09

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 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.

CMM/jlg

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