

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.: 2009-16124
Issue No.: 1038, 3029
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
August 19, 2009
Wayne County DHS (41)

ADMINISTRATIVE LAW JUDGE: Colleen Lack

HEARING DECISION

This matter is before the undersigned Administrative Law Judge upon pursuant to MCL 400. 9; MCL 400.37 upon claimant's request for a hearing. After due notice a telephone hearing was held on August 19, 2009 and claimant was not represented. [REDACTED], supervisor, and [REDACTED], FIS/JET worker, appeared on behalf of the department.

ISSUES

- 1) Whether the department properly closed claimant's Family Independence Program (FIP) benefits case for non-compliance with employment related activities.
- 2) Whether the Department properly penalized claimant's Food Assistance Program (FAP) benefits due to the non-compliance with employment related activities.

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 was an ongoing recipient of FIP and FAP benefits.

2. The department issued a notice to claimant to attend a Michigan Rehabilitation Services (MRS) appointment on December 9, 2009. (Department Exhibit 1 pg. 9)
3. Claimant did not attend the MRS appointment because she had a doctor appointment.
4. The department issued a notice to claimant to attend a Michigan Rehabilitation Services (MRS) appointment on February 17, 2009. (Department Exhibit 1 pg. 12)
5. The claimant did not attend and testified she was not able to attend this appointment due to her health conditions, including a recently broken leg.
6. The department closed the FIP benefits case on February 25, 2009 and a three month penalty was imposed on the FIP and FAP cases. (Department Exhibit 1 pg. 2)
7. Claimant requested a hearing contesting the closure on March 4, 2009.

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 Dependant 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).

The Food Assistance Program, formerly known as the Food Stamp (“FS”) program, is established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations (“CFR”). The Department of Human Services (“DHS”), formally known as the Family Independence Agency, administers the FAP program pursuant to MCL 400.10, *et seq* and MAC R 400.3001-3015. Departmental

policies are found in the Program Administrative Manual (“PAM”), the Program Eligibility Manual (“PEM”), and the Program Reference Manual (“PRM”).

The Family Independence Program (FIP) provides temporary cash assistance to support a family’s movement to self-sufficiency. The recipients of FIP engage in employment and self-sufficiency-related activities so they can become self-supporting. Federal and State laws require each work eligible individual (WEI) in the 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. These clients must participate in employment and/or self-sufficiency related activities to increase their employability and obtain stable employment. PEM 230A.

JET is a program administered by the Michigan Department of Labor and Economic Growth (DLEG) through the Michigan Works Agencies (MWAs). The JET program serves employers and job seekers for employers to have skilled workers and job seekers to obtain jobs that provide economic self-sufficiency. PEM 230 A. A mandatory participant in the JET program who fails without good cause to participate in employment activity must be penalized. PEM Manual Item 233(a). The penalty for the first occurrence of noncompliance in the JET program is a closure for a minimum of three calendar months under the FIP program. PEM Manual Item 233(a). If a customer is found in noncompliance with FIP when they are also a recipient of FAP, their FAP case will also be penalized for a minimum of three months under the JET program. PEM Manual Item 233(b); 42 USC 607. Good cause is a valid reason for noncompliance with employment related activities. A claim of good cause must be verified and documented for applicants, members, and recipients. PEM Manual Item 230(a), PEM Manual

Item 230(b); 7 CFR Parts 272 and 273. Under PEM 233A, the department must schedule a triage meeting to determine if there was good cause prior to the closure of FIP benefits.

In the present case, claimant was an ongoing recipient of FIP and FAP benefits. Claimant testified that she notified the department from the beginning that she had health and transportation problems that would prevent her from participating in the JET program and attending the MRS appointments. Claimant submitted a copy of a letter she faxed to the department to this effect. (Claimant Exhibit 1)

The department representative present at the hearing had limited information regarding claimant's case. The department representative could not tell if a triage meeting was ever scheduled and was not sure if claimant had any ongoing benefits.

The first MRS appointment was scheduled for December 9, 2008. (Department Exhibit 1 pg. 9) Claimant provided credible testimony that she missed this MRS appointment because of a doctor appointment. Claimant's testimony is supported by the DHS 54 Medical Needs form completed by claimant's physician indicating he last saw the patient on December 9, 2008. The form also notes the physician's opinion that claimant was unable to work at her usual occupation or any other job. (Department Exhibit 1 pg. 10)

The second MRS appointment was scheduled for February 17, 2009. Claimant testified she contacted the department and MRS prior to the appointment to explain she would not be able to attend because in addition to her ongoing health problems, she had recently broken her leg and was having complications with the implanted screws. A [REDACTED] hospital discharge report documents the fracture and a referral to an orthopedic surgeon. (Department Exhibit 1 pg. 11)

The department worker that claimant would have contacted about missing that appointment was not available to participate in the hearing. No representative from MRS was present at the hearing, however some case notes from MRS were submitted. The MRS records document that claimant called prior to the February 17, 2009 appointment stating she would not go to the department office again and would not be attending the appointment. (Department Exhibit 1 pgs. 3 and 8) However, the MRS records do not document any reasons claimant may given during the call.

Based upon the foregoing facts and relevant law, it is found that the department's FIP eligibility determination was incorrect. The department provided no evidence that the required triage meeting was scheduled. Further, it is found that claimant had good cause for missing the MRS appointments due to her doctor's appointment and multiple health conditions. The department shall reinstate claimant's FIP case retroactive to the closure date of February 25, 2009 and the penalty shall be removed from the FIP and FAP cases.

In light of claimants testimony regarding her extreme limitations due to the ongoing conditions including COPD, shingles, infections, nerve damage, and sever panic attacks, as well as the more recent leg fracture with complications, it is suggested that the department obtain documentation from claimant's treatment providers and submit the case to the MRT for a determination as to whether claimant is capable of participating in the JET program.

DECISION AND ORDER

