

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: 2009-19088

Issue No: 1038

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

May 20, 2009

Clare County DHS

ADMINISTRATIVE LAW JUDGE: Steven M. Brown

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. After due notice, a telephone hearing was conducted from [REDACTED] on May 20, 2009.

ISSUE

Whether the Department properly denied Claimant's application for Family Independence Program (FIP) benefits?

FINDINGS OF FACT

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

- (1) On April 7, 2009, Claimant applied for FIP benefits. (Exhibit I)
- (2) On April 9, 2009, the Department mailed Claimant an Application Eligibility

Notice, DHS-1150, informing her that she was not eligible for FIP benefits because she "did not meet non-financial factors. You are currently serving a year long penalty for non-compliance with MWA." (Exhibits II and IIIA/B)

(3) Claimant did not attend the triage or request a hearing after her third noncompliance in September 2008. Claimant's sanction period is from January 1, 2009 through December 31, 2009. Claimant testified that she is currently going to school, but cannot work due to mood disorder and depression and offered a letter from her new therapist that she should be deferred from working or participating in the WF program. (Exhibit IV)

(4) On April 14, 2009, the Department received Claimant's hearing request protesting the denial of her application for 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 Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

Department policy states that clients must be made aware that public assistance is limited to 48 months to meet their family's needs and that they must take personal responsibility to achieve self-sufficiency. This message, along with information on ways to achieve independence, direct support services, non-compliance penalties, and good cause reasons, is initially shared by DHS when the client applies for cash assistance. Jobs, Education and Training (JET) program requirements, education and training opportunities, and assessments will be covered by the JET case manager when a mandatory JET participant is referred at application. PEM 229, p. 1.

Federal and State laws require each work eligible individual (WEI) in the FIP and RAP 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. 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. A WEI who refuses, without good cause, to participate in assigned employment and/or self-sufficiency-related activities is subject to penalties. PEM 230A, p. 1.

The penalty for noncompliance without good cause is FIP closure. Effective April 1, 2007, the following minimum penalties apply:

- . For the first occurrence on the FIP case, close the FIP for not less than 3 calendar months unless the client is excused from the noncompliance as noted in “First Case Noncompliance Without Loss of Benefits” below.
- . For the second occurrence on the FIP case, close the FIP for not less than 3 calendar months.
- . For the third and subsequent occurrence on the FIP case, close the FIP for not less than 12 calendar months.
- . The penalty counter also begins April 1, 2007 regardless of the previous number of noncompliance penalties. PEM, Item 233A.

In the instant case, maybe Claimant would have been able to establish good cause for her 3rd noncompliance and/or would have been deferred had she informed the department of her mental health issues back in September 2008. However, Claimant was in noncompliance on three occasions, she did not go to triage or file a request for a hearing after the third

noncompliance and she never mentioned anything to the Department if, in fact, she was suffering from mood disorder and depression prior to and/or at the time of her last noncompliance.

Claimant only re-applied for FIP benefits after being evaluated by a new therapist in April 2009 who informed her that he had previously written successful deferral requests for his clients.

According to the April 13, 2009 letter authored by Claimant's therapist, Claimant did not even refer herself for treatment until November 2008 and she was recently transferred to him.

Therefore, given these facts along with the fact that Claimant is attending school, the therapist's opinion "that her mood disorder is significant enough to prevent her from working or participating in the Work First Program.....I do believe her condition has not changed since her origin referral" would have virtually no evidentiary value even if there were some basis for relief for Claimant, which there is not.

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 policy in denying Claimant's application for FIP benefits.

Accordingly, the Department's FIP eligibility determination is AFFIRMED, it is SO ORDERED.

/s/

Steven M. Brown
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: May 26, 2009

Date Mailed: May 28, 2009

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 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.

SMB/db

cc:

