

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: 2009-22615
Issue No: 1005
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
July 22, 2009
St. Clair County DHS

ADMINISTRATIVE LAW JUDGE: Suzanne L. Keegstra

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 a hearing. After due notice, a telephone hearing was held on July 22, 2009. The claimant, who was present and provided testimony, was represented by [REDACTED], present via teleconference.

ISSUE

Did the department properly determine the claimant's Family Independence Program (FIP) benefits should be terminated for failing to attend scheduled Medical Review Team (MRT) medical appointments in April, 2009?

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 January 7, 2009, the claimant had a consultation with Michigan Rehabilitative Services (MRS). The counselor noted that the claimant declined to participate with MRS. (Department Exhibit 3, 4).

2. On January 21, 2009, the department mailed the claimant a Verification Checklist (DHS-3503) that indicated that because the claimant had declined MRS services, she was required to submit further medical documentation. The Verification Checklist required the claimant to submit: Medical Examination Report (DHS-49); Medical—Social Questionnaire (DHS-49F); Activities of Daily Living (DHS-49G); Release of Information (DHS-1555) and all medical records from the past 12 months to substantiate a disability claim. These materials were due on February 10, 2009. (Department Exhibit 1).

3. On January 30, 2009, the department received a letter from the Disability Benefits Corporation, [REDACTED] that indicated the claimant had a pending claim with the Social Security Administration (SSA). (Department Exhibit 5).

4. On February 2, 2009, a department worker authored a letter to the claimant that indicated DHS clients are not automatically deferred when a Social Security claim is pending and that the claimant still needed to return the verifications requested on the January 21, 2009, Verification Checklist. The claimant was again informed the material needed to be returned by February 10, 2009. (Department Exhibit 2).

5. On February 20, 2009, the claimant returned completed Medical—Social Questionnaire; the Activities of Daily Living form; and the Authorization to Release Protected Health Information.

6. On February 24, 2009, the department caseworker attempted to complete the Social Summary with the claimant via telephone. The claimant did not answer the telephone, so

the case worker completed the form on the information she already had. (Department Exhibit 14– 15)

7. On March 4, 2009, the Medical Review Team (MRT) reviewed the documentation the claimant had submitted. The MRT deferred their decision on the claimant and indicated that if no medical records were provided, that they would request an internist exam and a psychological exam. (Department Exhibit 17).

8. The claimant was mailed a Medical Appointment Confirmation Notice (DHS-800) on March 17, 2009, scheduling her for an appointment with [REDACTED] on [REDACTED] for a psychological exam. (Department Exhibit 21).

9. The claimant was mailed a Medical Appointment Confirmation Notice (DHS-800) on March 17, 2009, scheduling the claimant for an appointment with [REDACTED] on [REDACTED] at [REDACTED] for a physical exam. (Department Exhibit 23).

10. The claimant did not attend either scheduled doctor's appointment. (Department Exhibit 24).

11. On April 3, 2009, the department mailed the claimant a letter that stated the claimant had failed to attend her scheduled medical appointment and informed the claimant that her FIP benefits would terminate unless she rescheduled the appointment and called the case worker with the new appointment date/time. (Department Exhibit 25).

12. The claimant contacted the department worker on April 15, 2009 and stated that she tried to reschedule her appointment, but the facility didn't recognize the doctor's name. When the caseworker asked the claimant why she didn't call to reschedule until the date of case closure, the claimant stated she had been in pain and not feeling well. (Department Exhibit 26).

13. The claimant's FIP case closed on April 15, 2009. (Department Exhibit 27).

14. The claimant submitted a hearing request on April 17, 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 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:

DEPARTMENT PHILOSOPHY

FIP

DHS requires clients to participate in employment and self-sufficiency-related activities and to accept employment when offered. Our focus is to assist clients in removing barriers so they can participate in activities which lead to self-sufficiency. However, there are consequences for a client who refuses to participate, without good cause.

The goal of the FIP penalty policy is to obtain client compliance with appropriate work and/or self-sufficiency-related assignments and to ensure that barriers to such compliance have been identified and removed. The goal is to bring the client into compliance.

Noncompliance may be an indicator of possible disabilities. Consider further exploration of any barriers.

TEMPORARY DEFERRALS

All deferrals are temporary. Clients meeting one of the criteria below are WEIs who are temporarily deferred from participation with or referral to an employment services provider. Temporarily deferred clients count in the state's federal work participation rate and are required to participate in activities that will increase their

full potential, remove barriers and prepare them for employment or referral to an employment services provider. Except for children under the age of 16, deferred clients are WEIs and are included in the state's work participation rate and required hours are assigned.

All activities assigned to deferred clients on the FSSP that are non-paid activities require verification as outlined in "Verification Requirements" and "Verification Sources" later in this item. Failure to return verification is noncompliance as outlined in PEM 233A.

FIS must ensure that each client assigned to self-sufficiency activities on the FSSP are given a sufficient number of DHS-630, Activity Logs, and return envelopes to last until the next planned meeting with the client. PEM 230A, p. 1.

Deferral for Disability

Defer the following:

- . Recipients of RSDI based on disability or blindness.
- . Persons found eligible for RSDI based on disability or blindness who are in non-pay status. PEM 230A, pp. 11-12.

Deferral for Short-Term Incapacity

Defer persons with a mental or physical illness, limitation, or incapacity which is expected to last less than three months and which prevents participation. Defer for up to three months.

Verify the short-term incapacity and the length of the incapacity using a DHS-54A, Medical Needs form, or other written statement from an M.D. or D.O.

If a non-pregnancy-related condition lasts or is expected to last more than 3 months, follow deferral policy for long-term incapacity below.

Deferral for Long-Term Incapacity

Defer persons with a mental or physical illness, limitation, or incapacity expected to last more than three months and preventing their participation in employment-related activities.

When a client states they are disabled or indicates that he/she may be unable to participate in work or JET (including those who have applied for RSDI/SSI) because of a mental or physical condition, injury, illness, impairment, or problem at intake, review or anytime during an ongoing benefit period, require the client to provide verification from their doctor (a DHS-49 or DHS-54A may be used). PEM 230A, pp. 12-13.

Consultation Request

Within 45 days of the request MRS will:

- . Schedule an appointment with the client.
- . Complete a consultation.
- . Complete Section II of the DHS-517 and send it back to the DHS case manager with their recommendation. PEM 230A, p. 13.

Deferrals

See “**Verification Sources**” below for more information.

Verify the following reasons for deferral:

- . **Temporary Incapacity.** Obtain medical evidence if the client claims a disabling condition expected to last 90 days or less. If needed, authorize a general medical exam or payment for a medical report. See PAM 815.
- . **Disability.** If the client claims a disabling condition expected to last more than 90 days, it must be verified:
 - .. Note from client’s doctor
 - .. DHS-49
 - .. DHS-54A
- . **Care of a Spouse/Child with Disabilities.** Verify the disability, the extent of the person’s need for a caretaker and school enrollment.
- . **Care of an *Early on*[®] Program Child.** Verify the child and parent are both actively participating in the *Early on*[®] Program. PEM 230, pp. 21-23.

CLIENT OR AUTHORIZED REPRESENTATIVE RESPONSIBILITIES

Responsibility to Cooperate

All Programs

Clients must cooperate with the local office in determining initial and ongoing eligibility. This includes completion of the necessary forms. PAM, Item 105, p. 5.

Client Cooperation

The client is responsible for providing evidence needed to prove disability or blindness. However, you must assist the client when they need your help to obtain it. Such help includes the following:

- . Scheduling medical exam appointments
- . Paying for medical evidence and medical transportation
- . See PAM 815 and 825 for details. PEM, Item 260, p. 4.

A client who refuses or fails to submit to an exam necessary to determine disability or blindness **cannot** be determined disabled or blind and you may deny or close the case. PEM, Item 260, p. 4.

In this case, the client is claiming a disability that prevents her from engaging with Work First/Jobs, Education and Training (WF/JET). It is noted that the claimant has not been approved for Social Security disability, thus she is not automatically deferred from WF/JET participation (see PEM 271). The claimant was sent to MRS to see if services could be provided to help the claimant with her alleged disabilities. The claimant declined to participate with MRS. Department policy then requires the claimant's medical documentation be provided to MRT to allow them to determine if the claimant is disabled, is work ready or work ready with some limitations (See PEM 230A).

In this case, the claimant failed to submit the Medical Examination Report (DHS-49). When MRT reviewed the case, they found inadequate information to make a determination on any potential deferral for the claimant. Therefore, MRT ordered the claimant to undergo an internist examination and a psychological evaluation. These tests were authorized by the

Department of Human Services and would be provided at no cost to the claimant (See Exhibit 22). The claimant admits that she received the notice of both appointments. The claimant was scheduled for the internist appointment on March 24, 2009 and the psychological evaluation on March 31, 2009.

However, the claimant did not attend either appointment. The claimant testified that she didn't attend the appointments because she misunderstood some of the information. The claimant testified that she did receive the letter from her case worker that informed her she missed the appointment and that she needed to reschedule prior to her case closing on April 15, 2009. The claimant testified that she didn't reschedule the appointments because she thought she had more time and wasn't feeling well due to a surgery back in February. The claimant did not call the department about the appointments until the day her FIP case closed. By this time, the claimant had had more than two weeks to reschedule the appointments and had failed to do so.

Department policy indicates that a client who refuses or fails to submit to an exam necessary to determine disability or blindness **cannot** be determined disabled or blind and the department may deny or close the case. PEM 260. Department policy also points out that disability must be verified for all DHS programs. PAM 130. This same policy also directs the department to send a negative action notice when the client indicates a refusal to provide verification or the time period to provide the verification has elapsed and the client has not made a reasonable effort to provide it. In this case, the claimant made no reasonable efforts to attend either of the scheduled appointments. Nor did she make any reasonable efforts to reschedule the appointments. These appointments were necessary for the department to determine any possible disability or basis for WF/JET deferral. Thus, as the claimant did not make a reasonable effort to

comply, the department properly determined that the claimant had not completed the necessary verifications and closed the claimant's FIP benefits.

It is noted that the claimant can re-apply for FIP benefits at any time as she is not sanctioned for any amount of time. However, since the MRT has not been able to make any determination of her eligibility for a deferral, the claimant will need to provide additional medical documentation or may be subject to being referred for appointments again to complete the verification process.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department properly determined the claimant the did not submit to the required MRT medical appointments and properly determined her FIP case should be terminated.

Accordingly, the department's actions are UPHELD. SO ORDERED.

/s/ _____
Suzanne L. Keegstra
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: September 10, 2009

Date Mailed: September 16, 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.

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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.

SLK 

cc:

