

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.: 2009-27951
Issue No.: 1038
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
August 5, 2009
Wayne County DHS (18)

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 5, 2009 and claimant was not represented. [REDACTED], FIS case manager, and [REDACTED], FIM, appeared on behalf of the department.

ISSUE

Whether the Department properly closed claimant's Family Independence Program (FIP) benefits case for non-compliance with Work First/JET?

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 benefits in a household of 3 persons.
2. Claimant had been participating in Work First until April 2009.

3. Claimant told her case worker she was unable to continue participating in Work First due to her multiple illnesses.
4. The department requested verifications of the medical condition, specifically a DHS 49 D and 49 E from claimant's psychiatrist. (Exhibit p.2)
5. Neither claimant nor the department was able to obtain the DHS 49 D and 49 E from claimant's psychiatrist's office.
6. The department closed the FIP benefits case on May 27, 2009.
7. Claimant requested a hearing contesting the closure on June 23, 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 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 230A. A mandatory participant in the JET program who fails without good cause to participate in employment activity must be penalized. PEM 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 233(a). 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.

Clients must cooperate with the local office in determining initial and ongoing eligibility including completion of necessary forms. PAM 105. Under PEM 230 A, when a client states they are disabled or indicates that they may be unable to participate in work or JET because of a mental or physical condition, injury, illness, impairment, or problem (including those who have applied for RSDI/ SSI) at intake, redetermination or anytime during an ongoing benefit period, the department is to request that the client to provide verification from their doctor. The medical documentation is sent to the Medical Review Team (MRT) to obtain a medical determination. PEM 230 A.

Under PAM 130, the department is to allow clients 10 calendar days from the date the verification is requested to provide all documents and information. The department must help clients who need and request assistance in obtaining verifications, and may extend the time limit.

If neither the client nor the department can obtain verification despite a reasonable effort, the department is to use the best available information, or if no evidence is available, use their best judgment. PAM 130. A negative action notice is to be sent when the client indicates refusal to provide a verification or the time period given has elapsed and the client has not made a reasonable effort to provide it. PAM 130.

In the present case, claimant was an ongoing recipient of FIP benefits who was unable to continue participating in Work First/JET due to her multiple illnesses. The department issued Verification Checklists in February and April 2009 requesting DHS 49 D and 49 E forms from claimant's psychiatrist. Exhibits pp. 7-8. The department tried to assist claimant in obtaining the forms from the psychiatrist's office. The department testified that the psychiatrist's office required payment of \$145 and was not willing to complete the DHS 49 D and 49 E forms for the \$12 the department is authorized to pay. In March 2009, the psychiatrist's office did send the initial assessment for claimant. Exhibits pp 35-49. Claimant testified she also requested her psychiatrist complete the forms but the psychiatrist responded that he would not complete the form without payment of the fee.

The department testified claimant's case was not sent to the MRT for a medical determination because the records did not contain the DHS 49 D and 49 E forms completed by the psychiatrist. This verification was not available despite the reasonable efforts made by both the department and claimant. Under PAM 130, the department should have used the best available information. The department had medical records dated from September and October 2009 and written information from claimant indicating she suffers from both physical and mental conditions. Exhibits pp. 19-49. Included in these materials are the DHS 54A Medical Needs and DHS 49 Medical Examination Report from the treating family practice physician signed

October 3, 2008 indicating limitations that were expected to at least at least 90 days. Exhibits pp. 31-33. The psychiatrist's office also provided the September 4, 2008 initial diagnostic assessment which included diagnoses of depressive disorder and anxiety disorder. Exhibits pp. 35-49.

Based upon the foregoing facts and relevant law, it is found that the department did not use the best available information in failing to send the available medical records to the MRT for a medical determination. Therefore, the closure of claimants FIP benefits for noncompliance with Work First/JET was in error.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the department failed to use the best available information and improperly closed claimant's FIP case.

Accordingly, the department's FIP determination is REVERSED. Therefore it is ORDERED that the department reinstate claimants FIP benefits to the closure date of May 27, 2009 and send the available medical documentation to the MRT for a medical determination in accordance with this Decision.

Colleen Lack

Colleen Lack
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 09/10/09

Date Mailed: 09/11/09

NOTICE: The law provides that within 30 days of receipt of the above Decision and Order the claimant may appeal it to the circuit court for the county in which he/she lives. Administrative Hearings, on its own motion, or on request of a party within 90 days of the receipt of this Decision and Order, may order a rehearing.

Administrative Hearings will not order a rehearing on the agency's motion where the final decision or rehearing cannot be implemented within 90 days of the filing of the original hearing request.

CL/jlg

cc:

