

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: 2009-34654

Issue No: 1038

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

October 6, 2009

Alpena County DHS

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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 October 6, 2009. Claimant appeared and testified. Michael Thomas, Case Manager, appeared on behalf of the department.

ISSUE

Did the Department of Human Services (DHS) properly close claimant's Family Independence Program (FIP) benefits case for noncompliance 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 benefits who had been deferred from mandatory JET participation based on a March 21, 2008 DHS 54-A Medical Needs form completed by her doctor. (Department Exhibit 1 pg. 11)

(2) Claimant remained deferred from JET participation pending a Michigan Rehabilitation Services referral and subsequent review of her medical records by the department's Medical Review Team (MRT).

(3) On May 28, 2009, the MRT issued an assessment for JET participation finding that claimant was not disabled-work ready with limitation to unskilled work. (Department Exhibit 1, pg. 8)

(4) On June 15, 2009, the department issued a letter to claimant informing her of the MRT determination and that she will be required to attend an orientation at Michigan Works to fulfill the JET participation requirements. (Department Exhibit 1, pg. 7).

(5) On June 18, 2009, the department issued an Appointment Notice for claimant at Michigan Works on June 30, 2009. (Department Exhibit 1, pg. 6)

(6) Claimant attended the June 30, 2009 orientation but testified she experienced panic attacks.

(7) The June 30, 2009 orientation case note documents that claimant reported she was under the care of Community Mental Health (CMH), that her doctor does not want her to work and that claimant was given a Medical Needs form to take to CMH. (Department Exhibit 2, pg. 3)

(8) A June 1, 2009 case note documents that claimant again reported anxiety problems during testing, was later found sleeping and was given permission to leave. (Department Exhibit 2, pgs. 2-3)

(9) Case notes from Wednesday July 7, 2009 indicate that claimant failed to turn in paperwork as required and indicated she would bring it in first thing Thursday morning. (Department Exhibit 2, pg. 2)

(10) Case notes from Thursday July 9, 2009 indicate claimant failed to attend class and called in because she was sick. Claimant was then assigned to triage because her paperwork was due that day. (Department Exhibit 2, pg. 2)

(11) On July 23, 2009, claimant participated by phone in a triage meeting held to discuss the noncompliance with the employment-related activities. Claimant faxed the department a Medical Needs form completed by her doctor on July 23, 2009 indicating she is unable to work. (Department Exhibit 1, pg. 10)

(12) At the conclusion of the triage meeting, the department found there was no good cause for the noncompliance and the claimant's FIP benefits closed effective July 23, 2009.

(13) Claimant indicated she disagreed with the determination of noncompliance without good cause and requested a hearing during the phone triage meeting. A written request for a hearing was received by the department on September 30, 2009. (Department Exhibit 1, pgs. 1-3)

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 Energy, 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.

A person with a mental or physical illness, limitation, or incapacity expected to last more than 90 days and preventing their participation in employment-related activities may be deferred for more than 90 days. Clients in this category may be referred to Michigan Rehabilitation Services (MRS) or the Commission for the Blind for consultation and may be eligible for ongoing services from those agencies. MRS offers vocational rehabilitation services to individuals with disabilities. BEM 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 require the client to provide verification from their doctor (a DHS-49, Medical Examination Report or DHS-54A, Medical Needs may be used) BEM 203A.

If the verification indicates the disability will last longer than 90 days, the department is to request a consultation from MRS or the Commission for the Blind, whichever is appropriate by completing Section I on a DHS-517, Consultation Request form. When the DHS-517 is returned, the department will then take action depending on the response. If the response indicates that the client does not feel they are capable of employment at this time, the department will then obtain a medical determination from the Medical Review Team. All decisions review the medical records and information provided by MRT to determine what accommodations, other than deferral from JET, the client needs to be able to benefit from the FIP program and to pursue employment and or self-sufficiency related activities. BEM 230A.

Upon receipt of the MRT determination, the department will take the action that pertains to the decision rendered by the MRT. For a determination of work ready with limitations, the department is to refer the claimant to JET identifying the client's limitations using additional information codes and case notes on the DHS-2439 when the referral is made to JET.

In the present case, claimant indicated she suffered from a long term incapacity and a DHS 54-A medical needs form was completed by her physician on March 21, 2008. (Department Exhibit 1, pg. 11) The department did refer claimant's case to Michigan Rehabilitation Services (MRS). At the MRS consultation, claimant indicated she did not feel employable at the time. (Department Exhibit 1, pg. 9) The department then continued to follow

the policy, as outlined above and gathered claimant's medical treatment records for a determination by the Medical Review Team (MRT). On May 28, 2009, the MRT issued a determination that claimant was not disabled and was work ready with limitations.

(Department Exhibit 1, pg. 8)

The department then referred claimant to Michigan Works for the required JET participation beginning on June 30, 2009. (Department Exhibit 1, pgs. 6-7) Claimant made some attempts to participate in the employment-related activities but reported difficulties due to her anxiety. Michigan Works did provide claimant with another Medical Needs form for her doctor to complete. (Department Exhibit 2, pg. 3) Claimant was found to be in noncompliance on July 9, 2009 for failure to meet the participation requirements and was referred for triage.

(Department Exhibit 2, pg. 2)

A triage meeting was held on July 23, 2009 to discuss the noncompliance and determine if claimant had good cause. Claimant participated in the triage by phone and as documentation to support good cause, faxed the department the DHS 54-A Medical Needs form completed by her doctor on July 23, 2009 indicating she was unable to work.

Based upon the foregoing facts and relevant law, it is found that that the claimant has documented good cause for the noncompliance with work activities as she has provided a current report from her doctor indicating she is unable to work.

Further, pursuant to BEM 230 A, pg. 15:

When a MRT decision has been completed and the client states they have additional medical evidence or a new condition, gather new verification and send for an updated MRT decision.

If the client comes in with a doctor's note after the MRT decision and does not have new medical evidence or a new condition send the DHS-518 to the client's doctor and request supporting medical evidence.

If new medical evidence is not provided do not send the case back to MRT. The previous MRT decision on the client stands.

The July 23, 2009 Medical Needs form should have been considered new evidence or a doctor's note that was received by the department after the MRT issued a decision. According to the above-cited policy, the claimant should be given the opportunity to have additional evidence submitted for an updated MRT decision.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that claimant submitted a new Medical Needs form completed by her doctor indicating that she was not able to work as documentation of good cause for noncompliance with work-related activities. Under BEM 230A, the additional evidence should be submitted for an updated MRT determination and therefore the department improperly closed the FIP benefits.

Accordingly, the Department's FIP eligibility determination is REVERSED. Therefore it is ORDERED that the department reinstate claimant's FIP benefits retroactive to the July 23, 2009 closure, and award benefits to claimant, in accordance with this decision.

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

Date Signed: October 10, 2009

Date Mailed: October 12, 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 mailing of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the mailing date of the rehearing decision.

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