

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: 2009-36942

Issue No: 1038

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

October 27, 2009

Monroe 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 27, 2009. Claimant was present and testified. Eugina Dillard, JET Coordinator, appeared on behalf of the department.

ISSUE

Did the Department of Human Services (department) properly close claimant's Family Assistance Program (FIP) benefits for failure to participate in work 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 JET participation due to her medical conditions.

(2) A January 23, 2009 Michigan Rehabilitation Services (MRS) consultation indicates claimant stated she was unable to work or benefit from MRS services. (Department Exhibit 2, pg. 1)

(3) The department next referred claimant's case to the Medical Review Team (MRT) for an evaluation.

(4) On August 10, 2009, the MRT found claimant was not disabled and was work ready with limitations. (Department Exhibit 1, pg. 1)

(5) On August 13, 2009, the department issued a notice to claimant to attend the Michigan Works JET program on August 24, 2009 at 8:30 am. (Department Exhibit 2, pg. 2)

(6) Claimant testified she received the notice three days prior to the appointment and made calls to her worker leaving voice mails because she needed assistance with transportation and child care.

(7) On September 9, 2009, the department issued a Notice of Noncompliance indicating a triage meeting was scheduled for September 15, 2009 to discuss the missed JET appointment. (Department Exhibit 2, pg. 3)

(8) On September 9, 2009, the department also issued an Appointment Notice for the September 15, 2009 triage meeting and a Notice of Case Action indicating the FIP benefits would close October 1, 2009. (Department Exhibit 2, pgs. 5-9)

(9) Claimant testified she tried to contact her worker about the triage appointment and FIP closure but could not leave a message because the worker's voice mail box was full.

(10) Claimant filed a hearing request to contest the FIP closure on September 25, 2009.

(11) Claimant's FIP benefits have remained open pending the hearing outcome.

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 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 230A.

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. The department did refer claimant's case to Michigan Rehabilitation Services (MRS). At the MRS consultation, claimant indicated she was unable to work or benefit from MRS services.

(Department Exhibit 2, pg. 1) 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 August 10, 2009, the MRT issued a determination that claimant was not disabled and was work ready with limitations. (Department Exhibit 1, pg. 1)

The department then referred claimant to Michigan Works for the required JET participation. On August 13, 2009, the department issued a notice to claimant to attend the Michigan Works JET program on August 24, 2009 at 8:30 am. (Department Exhibit 2, pg. 2) Claimant testified she received the notice three days prior to the appointment and made calls to her worker leaving voice mails because she needed assistance with transportation and child care. Claimant testified she did not get any response from her caseworker. There was no evidence presented to dispute claimant's testimony and her caseworker was not present for the hearing. The department representative, the JET coordinator, testified that she would not have been the person claimant would have contacted. However, the JET coordinator testified that ordinarily, if a claimant were to call the department and report such barriers to attending JET orientation, the

department would try to assist. The department could assist in several ways including, re-scheduling the appointment for a later date, providing bus tokens or other transportation assistance, as well as providing assistance with obtaining child care.

Claimant was found to be in noncompliance on August 24, 2009 for failure to attend the JET orientation. On September 9, 2009, the department issued a Notice of Noncompliance indicating a triage meeting was scheduled for September 15, 2009 to discuss the missed JET appointment. (Department Exhibit 2, pg. 3) On September 9, 2009, the department also issued an Appointment Notice for the September 15, 2009 triage meeting and a Notice of Case Action indicating the FIP benefits would close October 1, 2009. (Department Exhibit 2, pgs. 5-9)

Claimant did not attend the triage meeting scheduled for September 15, 2009. However, claimant testified she made several calls to her worker about the triage meeting, but was unable to leave a voicemail because the worker's voicemail box was full. Again, no evidence was presented by the department to dispute claimant's testimony.

Based upon the foregoing facts and relevant law, it is found that that the claimant had good cause for not attending the JET orientation as she did attempt to contact the department to reschedule and for assistance with child care and transportation. Therefore, the department's proposed closure of the FIP benefits is not proper. Claimant's FIP benefits shall remain open without penalty.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that that the claimant had good cause for not attending the JET orientation as she did attempt to contact the department to reschedule and for assistance with child care and transportation.

Accordingly, the department's FIP determination is REVERSED. Therefore, claimant's FIP benefits shall remain open without penalty.

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

Date Signed: November 3, 2009

Date Mailed: November 3, 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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