

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: 2009-7559

Issue No: 1021

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

February 9, 2009

Berrien County DHS

ADMINISTRATIVE LAW JUDGE: Tyra L. Wright

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 hearing was held on February 9, 2009. Claimant personally appeared and testified.

ISSUE

Did the Department act properly in sanctioning Claimant by closing her Family Independence Program (FIP) case on the grounds that she failed to attend the Jobs, Education and Training (JET) program without good cause?

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 a FIP recipient and she received [REDACTED] in monthly FIP benefits.
- (2) Claimant was required to attend the JET program.

(3) Claimant gave birth to a baby on [REDACTED]. As a result, she had a deferral from participating in JET until three month after the birth of her child.

(4) On September 24, 2008, the Department notified Claimant that she was to report to the JET Work First program [REDACTED] (Exhibit 1, Verification Checklist).

(5) Claimant did not attend JET Work First on October 6, 2008. Consequently, the Department worker scheduled a triage meeting at the Benton Harbor DHS office [REDACTED] [REDACTED] Exhibit 2, Notice of Noncompliance).

(6) Claimant attended a triage meeting by phone on [REDACTED].

(7) At the [REDACTED] triage meeting and at this hearing, Claimant asserted that she could not attend Work First due to a medical condition.

(8) Consequently, the Department worker sent Claimant a Verification Checklist, requesting a Medical Needs document, a DHS-54A form. The Verification Checklist stated: "If you have a medical condition that prohibits or restricts your Work First participation, the medical form enclosed must be completed and submitted." (Exhibit 3). The Medical Needs form was due on November 10, 2008.

(9) In addition to the Medical Needs form due on November 10, 2008, the Department also scheduled a meeting and compliance test for November 10, 2008. (Exhibit 4).

(10) Prior to November 10, 2008, Claimant told the DHS worker that her next appointment with her doctor was scheduled for November 14, 2008.

(11) The Department worker told Claimant that a signed statement from her doctor on the doctor's letterhead that included a diagnosis of her condition could be submitted. Claimant

told the worker that her doctor would fax a letter later that week which would have been prior to November 10, 2008.

(12) Claimant did not provide a statement concerning her medical diagnosis on the doctor's letterhead and did not return the DHS-54A Medical Needs form, prior to the November 10, 2008 deadline.

(13) Claimant's doctor faxed a letter to the Department after her November 14, 2008 medical appointment. The Department sanctioned Claimant because it did not receive the medical documentation prior to the November 10, 2008 deadline.

(14) The Department received Claimant's hearing request on December 15, 2008.

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 (formerly known as the Family Independence Agency) 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 for FIP are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

DEPARTMENT POLICY

FIP, RAP Cash

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. (PEM 230A, pg. 1)

NONCOMPLIANCE PENALTIES FOR ACTIVE FIP CASES AND MEMBER ADDS

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 three 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 three calendar months.
- For the third and subsequent occurrence on the FIP case, close the FIP for not less than 12 calendar months. (PEM 233A, p. 6).

TRIAGE

JET participants will not be terminated from a JET program without first scheduling a triage meeting with the client to jointly discuss noncompliance and good cause. Locally coordinate a process to notify the MWA case manager of triage meetings including scheduling guidelines.

Clients can either attend a meeting or participate in a conference call if attendance at the triage meeting is not possible. If a client calls to reschedule an already scheduled triage meeting, offer a phone conference at that time. Clients must comply with triage requirements within the negative action period.

When a phone triage is conducted for a first noncompliance and the client agrees to comply, complete the DHS-754, First Noncompliance Letter, as you would complete in a triage meeting. Note in the client signature box Client Agreed by Phone. Immediately send a copy of the DHS-754 to the client and phone the JET case manager if the compliance activity is to attend JET.

Determine good cause based on the best information available during the triage and prior to the negative action date. Good cause may be verified by information already on file with DHS or MWA. Good cause must be considered even if the client does not attend, with particular attention to possible disabilities (including disabilities that have not been diagnosed or identified by the client) and unmet needs for accommodation.

If the FIS, JET case manager, or MRS counselor do not agree as to whether good cause exists for a noncompliance, the case must be forwarded to the immediate supervisors of each party involved to reach an agreement.

DHS must be involved with all triage appointment/phone calls due to program requirements, documentation and tracking.

Note: Clients not participating with JET must be scheduled for a triage meeting between the FIS and the client. This does not include applicants. (PEM 233A, pg.8-9).

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In this case, Claimant established good cause for failing to attend JET. Although she was given two opportunities to prevent her FIP case from closing due to noncompliance, Claimant was unable to attend JET for medical reasons and asked her doctor to fax her diagnosis letter to the Department. Claimant relied on her doctor's assurance that the doctor would fax the letter. She also informed the Department. The doctor provided the statement after the deadline. Claimant made a reasonable effort to provide the documentation the Department needed. Under these circumstances, the worker should have attempted to assist Claimant in obtaining the medical statement from her doctor. The worker did not attempt to assist Claimant even after Claimant informed the worker that she was not able to attend JET for medical reasons, that she could not get an appointment with her doctor until November 14, 2008, and that the doctor would fax to the Department a letter prior to the deadline. Under these circumstances, it is found that the Department worker should have made an attempt to assist Claimant in obtaining the medical documentation and did not.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department improperly closed Claimant's FIP case as a sanction for her noncompliance.

Accordingly, the Department's action is REVERSED. The Department is ORDERED to reopen Claimant's case and issue any retroactive benefits she is entitled to receive.

/s/

Tyra L. Wright
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: February 17, 2009

Date Mailed: February 20, 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 receipt date of the rehearing decision.

TLW

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