

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: 2009-11384
Issue No: 1038
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
June 2, 2009
Kent County DHS

ADMINISTRATIVE LAW JUDGE: Steven M. Brown

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 hearing. After due notice, a telephone hearing was conducted from [REDACTED] on June 2, 2009.

ISSUE

Whether the Department properly terminated Claimant's Family Independence Program (FIP) benefits?

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 recipient of FIP benefits and a mandatory Work First/Jobs, Employment and Training (WF/JET) participant.

(2) In July 2007, the Department sent Claimant's medical documentation including a Medical Needs, DHS 54-A, to the Medical Review Team (MRT) (Exhibit 1)

- (3) On October 2, 2007, MRT denied Claimant's WF/Jet deferral. (Exhibit 1)
- (4) On November 30, 2007, the Department resent Claimant's MRT packet plus additional medical documentation to MRT. (Exhibit 1)
- (5) On December 13, 2007, MRT deferred its decision and requested a psychiatrist examination and other medical testing and documentation. (Exhibit 1)
- (6) On April 23, 2008, the Department mailed Claimant a Verification Checklist, DHS-3503, requesting the additional documentation requested by MRT. (Exhibit 8)
- (7) In June 2008, Claimant returned additional medical documentation to the Department which was forwarded to MRT. (Exhibit 1)
- (8) On June 24, 2008, MRT denied Claimant's WF/JET deferral deeming her "Not Disabled – Work Ready with Limitations (see below)". (Exhibit 2)
- (9) On September 8, 2008, the Department sent Claimant a Verification Checklist, DHS-3503, and a Work First/Jobs, Education and Training Appointment Notice informing her that she must attend WF/JET on September 22, 2008. The Appointment Notice also stated in pertinent part – "There are penalties for non-cooperation with assigned activities. FIP applicants who do not attend WF or JET prior to case opening will be denied FIP benefits. Ongoing FIP recipients who do not cooperate with meeting self-sufficiency goals may have their cases closed". (Exhibits 5, 6)
- (10) Client did not attend her September 22, 2008 WF/JET appointment.
- (11) On September 30, 2008, the Department sent Claimant a Notice of Employment-Related Noncompliance which stated in pertinent part - "Records show that you have refused or failed to participate as required in employment-related activities as noted below: "09/22/08 No

call/No Show (did not attend first assignment)” “You MUST attend a meeting to discuss your reasons for not meeting employment-related activity requirements.” “It is your responsibility to report and verify reasons for your actions. This is your opportunity to claim barriers that make it hard for you to work”. (Exhibit 3)

(12) On October 2, 2008, the Department notified Claimant that her FIP benefits would be terminated on October 14, 2008.

(13) On October 10, 2008, Claimant called the Department and stated that she was going to get another letter from her Doctor and/or was going to apply for a hearing.

(14) The Department terminated Claimant’s FIP benefits on October 14, 2008.

(15) Claimant filed a hearing request protesting the termination of FIP benefits after October 14, 2008, the effective date of action.

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 that clients must be made aware that public assistance is limited to 48 months to meet their family’s needs and that they must take personal responsibility to achieve self-sufficiency. This message, along with information on ways to achieve independence, direct support services, non-compliance penalties, and good cause reasons, is

initially shared by DHS when the client applies for cash assistance. Jobs, Education and Training (JET) program requirements, education and training opportunities, and assessments will be covered by the JET case manager when a mandatory JET participant is referred at application. PEM 229, p. 1.

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. 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. A WEI who refuses, without good cause, to participate in assigned employment and/or self-sufficiency-related activities is subject to penalties. PEM 230A, p. 1.

Noncompliance of applicants, recipients, or member adds means doing any of the following without good cause:

- . Failing or refusing to:
 - .. Appear and participate with the Jobs, Education and Training (JET) Program or other employment service provider.
 - .. Complete a Family Automated Screening Tool (FAST), as assigned as the first step in the FSSP process.
 - .. Develop a Family Self-Sufficiency Plan (FSSP) or a Personal Responsibility Plan and Family Contract (PRPFC).

- .. Comply with activities assigned to on the Family Self-Sufficiency Plan (FSSP).
- .. Provide legitimate documentation of work participation.
- .. Appear for a scheduled appointment or meeting related to assigned activities.
- .. Participate in employment and/or self-sufficiency-related activities.
- .. Accept a job referral.
- .. Complete a job application.
- .. Appear for a job interview (see the exception below).
- . Stating orally or in writing a definite intent not to comply with program requirements.
- . Threatening, physically abusing or otherwise behaving disruptively toward anyone conducting or participating in an employment and/or self-sufficiency-related activity.
- . Refusing employment support services if the refusal prevents participation in an employment and/or self-sufficiency-related activity. PEM 233A, pp. 1-2.

The Department is required to send a DHS-2444, Notice of Employment and/or Self-Sufficiency Related Noncompliance within three days after learning of the noncompliance which must include the date of noncompliance, the reason the client was determined to be noncompliant, the penalty that will be imposed and the triage date within the negative action period. PEM 233A, p. 9

Good cause is a valid reason for noncompliance with employment and/or self-sufficiency-related activities that are based on factors that are beyond the control of the noncompliant person. A claim of good cause must be verified and documented for member adds

and recipients. If it is determined at triage that the client has good cause, and good cause issues have been resolved, the client should be sent back to JET. PEM 233A, p. 4

Good cause should be determined 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. PEM 233A, p. 9

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 3 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 3 calendar months.
- . For the third and subsequent occurrence on the FIP case, close the FIP for not less than 12 calendar months.
- . The penalty counter also begins April 1, 2007 regardless of the previous number of noncompliance penalties. PEM 233A, p. 6-7

In the instant case, Claimant’s case was reviewed by MRT on two occasions and she was denied deferral on both. It was made very clear to Claimant that she needed to attend the JET program and what the penalties would be for her failure to do so. Claimant did not attend the JET program and her FIP benefits were terminated as a result. With that said, I find that the Department acted in accordance with policy in terminating Claimant’s FIP benefits.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department acted in accordance with policy in terminating Claimant's FIP benefits.

Accordingly, the Department's FIP eligibility determination is AFFIRMED, it is SO ORDERED.

/s/ _____
Steven M. Brown
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: June 9, 2009

Date Mailed: June 9, 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 receipt 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.

SMB/db

cc:

