

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: 2009-16437
Issue No: 1038
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
September 22, 2009
Emmet County DHS

ADMINISTRATIVE LAW JUDGE: Jana A. Bachman

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, an in-person hearing was held on September 22, 2009. Claimant was represented by [REDACTED]

ISSUE

Whether the Department of Human Services (department) acted in compliance with department policy when it determined claimant's Family Independence Program (FIP).

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

(1) During October 2008 through March 2009, claimant received FIP from the department.

(2) Claimant asserted that she was too sick to work and requested to be exempt from work related activities. She submitted medical records for department consideration.

Department A, pages 1-329.

(3) January 14, 2009, the Medical Review Team (MRT) denied claimant's request for exemption. MRT assessment based on objective medical data submitted by claimant was completed and claimant was found to be work ready with limitations: occasional lifting of 20 pounds, stand/walk for at least 2 hours per day and sit for about 6 hours per day. Department A, page 329-330.

(4) January 16, 2009, department sent claimant notice that she must attend JET orientation. Department A, page 336. Claimant met with department personnel and re-asserted her request to be exempt from participation. She submitted a completed Medical Needs form (DHS-54A) completed January 19, 2009, indicating physician's opinion that claimant was not able to work for 3 months. Department A, page 331. Claimant was to participate with [REDACTED] and was assured that her limitations would be taken into account. Department A, page 340, 344.

(5) March 5, 2009, claimant was issued written notice that she failed to comply with work-related requirements. Department A, page 350-352. Triage meeting was held March 12, 2009. Claimant attended and it was determined that she failed to participate without good cause. Department A, page 346.

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 manuals provide the following policy statements and instructions for caseworkers:

Inform clients requesting accommodation or deferral that they may be required to attend appointments with MRS, doctors, psychologists, or others to ensure that appropriate accommodations or deferrals are made. Explain that assessment is voluntary but failure to cooperate with assessment may prevent DHS from providing a deferral or accommodation. Also inform the client s/he will be required to engage in self-sufficiency and family strengthening activities even if they are deferred from JET or work activities and may be subject to penalties if they do not participate as required.

When information provided by an appropriate source indicates the need for reasonable accommodation do the following:

- Obtain a DHS-54A, Medical Needs form from a qualified medical professional listed on the form.
- Consult Michigan Rehabilitation Services (MRS) if additional information about appropriate accommodations is needed or when you need advice.
- Document the accommodation in the Other MWA referral comments section of the Employment Services - Details screen, and on the Family Self-Sufficiency Plan (FSSP).

Modifications or extra help may include, but are not limited to the following:

- Reduced hours of required participation;
- Extended education allowances including more than 12 months allowed for vocational education;
- Extended job search/job readiness time limit; or

- Participation in MRS in lieu of other employment services.

Justification for a plan including reasonable accommodation is documented in the client's Family Self-Sufficiency Plan (FSSP) and the Individual Service Strategy (ISS with the MWA).

When clients with verified disabilities are fully participating to their capability, they are counted as fully engaged in meeting work participation requirements regardless of the hours they are engaged even if they do not meet federal work requirements.

The MWA may refer a client to MRS for services to remove a barrier or enhance a work skill. A client referred to MRS by the MWA may be assigned additional activities through the MWA. When a client is referred to MRS by MWA, the MWA remains the monitoring agency. Clients served by MRS will be required to participate in all activities assigned by both MWA and MRS.

Take action below that pertains to the decision rendered by the MRT.

- 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. Follow the procedure for accommodating disabilities in Reasonable Accommodation in this item.

Work ready with limitations:

- Refer to JET. Identify the clients limitations using additional information codes and case notes on the DHS-2439 when the referral is made to JET.

Bridges Eligibility Manual (BEM) 230A

MCL 400.57f

Rehabilitation Act of 1973 (Section 504),

Americans with Disabilities Act of 1990

Michigan Persons with Disabilities Civil Rights Act

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. Good cause reasons may include:

- The client is physically or mentally unfit for the job or activity, as shown by medical evidence or other reliable information. This includes any disability-related limitations that preclude participation in a work and/or self-sufficiency-related activity. The disability-related needs or limitations may not have been identified or assessed prior to the noncompliance.
- The DHS, employment services provider, contractor, agency, or employer failed to make reasonable accommodations for the client's disability or the client's needs related to the disability.

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.
- 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.

BEM 233A

MCL 400.57g
42 USC 607

In this case, claimant was a mandatory participant in work related activities as a condition of FIP eligibility. Claimant asserted disability and submitted medical documentation. The documentation was examined and evaluated in light of the Americans With Disabilities Act (ADA). MRT determined claimant to be work ready with limitations. Claimant refused to cooperate with work related activities. At hearing, claimant asserted that MRT is not competent to make a decision regarding her abilities as the MRT did not examine claimant. Claimant asserted that her physician's opinion that she was not able to work should take precedence over MRT opinions. These assertions are not consistent with department policy as stated above. In any case, the department did not require claimant to work. The department required claimant to

participate in rehabilitative services which would take into account claimant's limitations as established by objective medical evidence. As such, the department has met its burden of proof and its action to sanction claimant must be upheld. Finding of Fact 1-5.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the Department of Human Services acted in compliance with department policy when it determined claimant's eligibility for Family Independence Program benefits. Accordingly, the department's action is **HEREBY UPHELD**.

/s/ _____
Jana A. Bachman
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: September 30, 2009

Date Mailed: October 1, 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.

JAB/db

cc:

