

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: 2009-20393

Issue No: 1038

Case No:

[REDACTED]

Load No:

Hearing Date:

June 10, 2009

Macomb 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 a hearing. After due notice, a telephone hearing was conducted from [REDACTED] on June 10, 2009.

ISSUE

Whether the Department properly terminated Claimant's Family Independence Program (FIP) and Medical Assistance (MA) benefits and reduced her Food Assistance Program (FAP) benefits?

FINDINGS OF FACT

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

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

(2) On March 20, 2009, Claimant contacted the Department and informed them that she was going to start receiving [REDACTED].

(3) On March 25, 2009, the Department was informed by WF/JET that Claimant was in noncompliance with WF/JET requirements. (Exhibit 5)

(4) On March 27, 2009, the Department sent Claimant a Notice of Noncompliance which stated in pertinent part - "Records show that you have refused or failed to participate as required in employment and/or self sufficiency related activities for FIP, RAP and FAP as noted below: 3/13/2009, 3/18/2009, 3/19/2009 Failed To Complete Work First Assignment" "A meeting has been scheduled to give you an opportunity to report and verify your reasons for non-compliance. If you want to have a telephone meeting, please call to schedule it before you miss your scheduled appointment.....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. If you do not contact me before the appointment date, I will make a good cause decision for you using the information available to me." (Exhibit 4)

(5) On April 2, 2009, Claimant failed to attend the triage meeting. She testified that she did not receive the notice, but that she received other documentation from the Department at the same address.

(6) The Department found no good cause for Claimant's noncompliance with WF/JET so it terminated her FIP benefits. Claimant's FIP benefits would have also been terminated as a result of receiving [REDACTED]. (Exhibit 1)

(7) On April 16, 2009, the Department completed a FAP budget for May 2009 to include Claimant's [REDACTED] and to remove her from the group as a sanction for her noncompliance with the WF/JET program. The revised FAP budget resulted in a reduction in benefits from [REDACTED] to [REDACTED] month. (Exhibits 7, 8)

(8) On April 16, 2009, the Department mailed Claimant a Notice of Case Action which informed Claimant that her FAP benefits were being reduced effective April 28, 2009 due to the start or increase in her [REDACTED]. (Exhibit 3)

(9) On April 16, 2009, the Department completed a MA budget to include Claimant's [REDACTED]s which resulted in Claimant no longer being eligible for Medicaid due to excess income. Medical coverage continued for [REDACTED] and Healthy Kids medical coverage continued for [REDACTED] and [REDACTED]. (Exhibit 9)

(10) On April 16, 2009, the Department mailed Claimant a Notice of Case Action which informed Claimant that her MA coverage would be cancelled effective April 28, 2009 for Claimant and [REDACTED] and would be continued for [REDACTED] and [REDACTED] and that she had received or would receive a notice from her caseworker giving her the specific reason for this action. (Exhibit 2)

(11) On April 22, 2009, the Department received Claimant's hearing request protesting the termination of her FIP and MA benefits and the reduction in her FAP benefits. (Exhibits 2, 3)

(12) On April 30, 2009, the Department completed a FAP budget for June 2009 based only on Claimant's [REDACTED] and including her as part of the group which resulted in a FAP allotment of [REDACTED]/mo. (Exhibit 6)

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).

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department of Human Services (DHS or department) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105. Department policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

The Food Assistance Program (FAP) (formerly known as the Food Stamp (FS) program, is established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations (CFR). The Department of Human Services (DHS or department), administers the FAP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3001-3015. Departmental 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 [REDACTED]). 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, Item 233A.

Noncompliance, without good cause, with employment requirements for FIP/RAP(SEE PEM 233A) may affect FAP if both programs were active on the date of the FIP noncompliance. PEM 233b, p. 1 The FAP group member should be disqualified for noncompliance when all the following exist:

- The client was active both FIP and FAP on the date of the FIP noncompliance, and
- The client did not comply with FIP/RAP employment requirements, and
- The client is subject to a penalty on the FIP/RAP program, and
- The client is not deferred from FAP work requirements (see DEFERRALS in PEM 230B), and
- The client did not have good cause for the noncompliance. PEM 233B, p. 2

The Department should budget the Last FIP grant amount on the FAP budget for the number of months that corresponds with the FIP penalty (either three months for the first two noncompliances or 12 months for the third and subsequent noncompliances) after the FIP case closes for employment and/or self sufficiency-related noncompliance. The Last FIP grant amount is the grant amount the client received immediately before the FIP case closed. PEM 233B, p. 2

The Department should budget the Last FIP for three or 12 months whether or not the noncompliant person is disqualified from FAP. If a FIP penalty is imposed; the Last FIP grant amount must be budgeted. The Department should budget the Last FIP amount only when the client was receiving FAP on the date of the FIP noncompliance. If the client was only applying for FIP and violated a FIP employment and/or self-sufficiency-related requirement, the FAP grant would not be affected. PEM 233B, p. 2

All earned and unearned income available to the Claimant is countable. Earned income means income received from another person or organization or from self-employment for duties that were performed for remuneration or profit. Unearned income means ALL income that is not earned and includes FIP, RSDI, SSI and UB. The amount

counted may be more than the client actually receives because the gross amount is used prior to any deductions. PEM 500

The Department determines a client's eligibility for program benefits based on the client's actual income and/or prospective income. Actual income is income that was already received. Prospective income is income not yet received but expected. Prospective budgeting is the best estimate of the client's future income. PEM 505

All income is converted to a standard monthly amount. If the client is paid weekly, the Department multiplies the average weekly amount by 4.3. If the client is paid every other week, the Department multiplies the average bi-weekly amount by 2.15. PEM 505

In the instant case, while Claimant is not seeking reinstatement of her FIP benefits, I find that the Department acted in accordance with policy in terminating her FIP benefits due to her noncompliance with WF/JET requirements and not demonstrating good cause for her noncompliance. She was noncompliant on March 13th, 18th and 19th and then did not attend the triage to establish good cause for her noncompliance.

As to her MA benefits, I find that the Department established that it acted in accordance with policy in terminating her MA benefits due to excess income. It should be noted that Claimant's children's Healthy Kids coverage continued, but [REDACTED] medical coverage continued according to one document and was terminated according to another. Clarification is needed on that issue.

Finally, as to Claimant's FAP benefits, Claimant's benefits were reduced because she started receiving [REDACTED] and because the Department included her FIP benefit and removed her from the group as a sanction for her FIP noncompliance.

Again, if Claimant had good cause for her FIP noncompliance, she should have attended the April 2, 2009 triage meeting with the Department. I find that the Department demonstrated that it acted in accordance with policy in reducing Claimant's FAP benefit.

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 and MA benefits and reducing her FAP benefits.

Accordingly, the Department's FIP, MA and FAP eligibility determination are **AFFIRMED**, it is **SO ORDERED**. The Department shall:

(1) Clarify in writing to Claimant, if it has not done so already, whether [REDACTED] [REDACTED] medical coverage continued past April 28, 2009 or whether it was terminated as of that date.

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

Date Signed: June 15, 2009

Date Mailed: June 15, 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.

2009-20393/smb

SMB/db

cc:

