

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: 2009-27547
Issue No: 1038/3028/6019
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
September 3, 2009
Kalamazoo 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 3, 2009.

ISSUE

Whether the department of Human Services (department) properly proposed to sanction claimant's Family Independence Agency (FIP), Food Assistance Program (FAP), and Child Development and Care Program (CDC) benefits due to nonparticipation 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) On or about January 2009, claimant was a mandatory participant in work-related activities. Claimant agreed that he failed to comply with the work-related activities without good

cause. Claimant was given the opportunity to comply without case closure. One noncompliance remained on his record. Department Exhibit A, pg 1.

(2) During April 2009 and the first ten days of May 2009 claimant was a mandatory participant in work-related activities. Claimant participated four hours the week of April 19, 2009, four hours the week of April 26, 2009, and four hours the week of May 3, 2009. Claimant was required to participate for 20 hours per week. Department Exhibit A, pg 11.

(3) May 29, 2009, claimant reported that he was expected to have surgery and be off work from May 27, 2009 until June 10, 2009. Claimant was to provide a statement from physician to verify surgery. Department Exhibit A, pgs 9-10.

(4) June 1, 2009, Michigan Works personnel determined that claimant did not meet work requirements prior to his medical leave for surgery. He averaged four hours of participation per week. Department Exhibit A, pgs 9-10.

(5) June 10, 2009, claimant attended triage. The department determined claimant required further doctor information to clarify doctor excuse. Department Exhibit A, pgs 9-10.

(6) May 11, 2009, claimant was examined by his physician and physician completed a Medical Needs form (DHS-54A) that stated claimant has chest pain, cannot work at his usual occupation, and is able to work with limitations of 4-5 hours per day. Department Exhibit A, pgs 18-18A.

(7) June 8, 2009, a second physician from the same practice wrote a letter based on treatment notes from exam completed by first physician stating that claimant was on complete temporary disability until July 11, 2009. Department Exhibit A, pg 16.

(8) June 2, 2009, a cardiologist completed a prescription note to state that on June 2, 2009, claimant was not able to work until further notice. Department Exhibit A, pg 15.

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 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. Department policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

The Child Development and Care program is established by Titles IVA, IVE and XX of the Social Security Act, the Child Care and Development Block Grant of 1990, and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The program is implemented by Title 45 of the Code of Federal Regulations, Parts 98 and 99. The Department of Human Services (DHS or department) provides services to adults and children pursuant to MCL 400.14(1) and MAC R 400.5001-5015. Department policies are contained 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:

All work eligible individuals (WEIs), unless deferred, must engage in employment that pays at least a minimum wage or participate in employment services. WEIs who are temporarily deferred are required to participate in activities that will help them overcome barriers and prepare them for employment or a referral to an employment service provider. Bridges Eligibility Manual (BEM) 230A, MCL 400.57(f), Rehabilitation Act of 1973 (Section 504), Americans with Disabilities Act of 1990, Michigan Persons with Disabilities Civil Rights Act.

Non-deferred adult members of FAP households must comply with certain work-related requirements in order to receive food assistance. Non-deferred adults who are not working or are working less than 30 hours per week:

- Accept a bonafide offer of employment.
- Participate in activities required to receive unemployment benefits if the client has applied for or is receiving unemployment benefits.

Disqualify FAP clients for noncompliance if:

- The applicant or recipient is not deferred and
- The applicant or recipient is noncompliant with one of the FAP work requirements above.

Bridges Eligibility Manual (BEM) 230B, Food Stamp Act of 1977, as amended, 7 CFR Part 272 and 273, FNS Waiver 2040026

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 policy.

If the client establishes good cause within the negative action period, reinstate benefits. Send the client back to JET, if applicable after resolving factors that may have contributed to the good cause.

If client does not provide a good cause reason for the noncompliance, determine good cause based on the best available information available.

- 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.

BEM 233A, MCL 400.57(g), 42 USC 607.

Disqualify a FAP group member for noncompliance when all the following exists:

- The client was active both FIP and FAP on the date of the FIP noncompliance and
- The client did not comply with FIP employment requirements and
- The client is subject to a penalty on the FIP program and
- The client is not deferred from FAP work requirements and
- The client did not have good cause for the noncompliance.

BEM 33B, Food Stamp Act of 1977, as amended, R 400. 3610 and 7 CFR 272 and 273.5, FIP 1939 PA 280.

There are four Child Development and Care (CDC) need reasons. Each parent/substitute parent of the child needing care must have a valid need reason during the time child care is requested. Each need reason must be verified and exists only when each parent/substitute parent is unavailable to provide the care because of:

- (1) Family preservation.
- (2) High school completion.
- (3) An approved activity.
- (4) Employment.

BEM 703, Child Care and Development of 1990, 45 CFR Parts 98 and 99, P. L. 104-193, Social Security Act, as amended, Titles IVA, (42 USC 601 et. seq.), Title 4E (42 USC 670 et. seq.), Title 20 (42 USC 1397 et. seq.), R 400.5001-400.5015 MAC.

In this case, during January 2009, claimant was found to have failed to participate. He was excused from being sanctioned but the nonparticipation remained on his record. On or about May 11, 2009, claimant was under evaluation for heart problems due to chest pain. May 11, 2009, following physical examination, claimant's physician opined that claimant could work with limitations: 4-5 hours per day. June 8, 2009, a second physician in the same practice opined that claimant could not work at all based on treatment notes taken by the first physician on May 11, 2009. June 2, 2009, a cardiologist opined that claimant should not work at all as he was being evaluated for potential heart surgery. However, the time period for which the department proposes to sanction claimant for nonparticipation occurred during weeks April 19, 2009, April 26, 2009, and May 3, 2009. Claimant did not provide a medical statement for these three weeks. Claimant did not participate in work-related activities 20 hours each of these weeks as required. Finding of Fact 1-8; Department Exhibit A. Accordingly, the department has met its burden of proof and its action must be upheld. Having no required need reason to obtain CDC benefits, the department properly proposed to terminate claimant's CDC. BEM 703.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department properly proposed to sanction claimant's Family Independence Agency Program and Food Assistance Program benefits and terminate claimant's Child Development and Care benefits due to failure to participate in work-related activities.

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: October 21, 2009

Date Mailed: October 22, 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:

