

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: 2009-28504

Issue No: 1038

Case No:

Load No:

Hearing Date:

August 20, 2009

Kalamazoo 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 August 20, 2009.

ISSUE

Whether the Department properly terminated Claimant's Family Independence Program (FIP) and Medical Assistance (MA) benefits, reduced her Food Assistance Program (FAP) benefits and denied her State Emergency Relief (SER) application?

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 May 27, 2009, the Department was informed by WF/JET that Claimant was in noncompliance with WF/JET requirements. (Exhibits 14-17, 20-22)

(3) On June 9, 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.....A meeting has been scheduled to give you an opportunity to report and verify your reasons for non-compliance." (Exhibits 12-13)

(4) On June 16, 2009, a triage meeting was held. Claimant was a no show, no call. The Department found no good cause and her FIP case was pended to close for 3 months effective July 1, 2009. (Exhibits 7-9, 11)

(5) On June 16, 2009, the Department also took action on an April 17, 2009 Notice of Noncooperation from the Office of Child Support (OCS) which resulted in an indefinite closure of Claimant's FIP case, a reduction in her FAP benefits, the closure of her MA case and the denial of her SER application. (Exhibits 7-10)

(6) On June 22, 2009, the Department received Claimant's hearing request protesting the termination of her FIP benefits, the reduction in her FAP benefits and the denial of her SER application.

(7) At hearing, Claimant testified that she lost her mailbox key in early June 2009. It cost about \$13/14 to replace so she did not get it replaced for about 2 weeks. She received all the Department documentation a couple days after the triage.

(8) At hearing, [REDACTED] filled in for [REDACTED] and testified that there was a Compliance Letter in the file dated July 9, 2009 which states that Claimant was in compliance with the OCS effective

April 17, 2009. Claimant testified that she left a voicemail message with her child's father's information with the OCS shortly after receiving the noncooperation letter.

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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM).

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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Bridges Reference Manual (BRM).

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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM).

The State Emergency Relief (SER) program is established by 2004 PA 344. The SER program is administered pursuant to MCL 400.10, *et seq.*, and by final administrative rules filed with the Secretary of State on October 28, 1993. MAC R 400.7001-400.7049. Department of Human Services (DHS or department) policies are found in the Emergency Relief Manual (ERM).

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. BEM 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. BEM 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. BEM 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. BEM 233A, p. 7-8

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. BEM 233A, p. 3-4

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. BEM 233A, p. 7

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. BEM, p.6

Noncompliance, without good cause, with employment requirements for FIP/RAP(SEE BEM 233A) may affect FAP if both programs were active on the date of the FIP noncompliance. BEM 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. BEM 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. BEM 233B, p. 2

In the instant case, Claimant missed the triage because she did not receive notice of the meeting, but that was a direct result of deciding to go without a mailbox key and mail for 2 weeks. With that said, I find that the Department acted in accordance with policy in terminating Claimant's FIP benefits for 3 months. However, Claimant was in compliance with the OCS effective April 17, 2009 and, therefore, was never in noncompliance. Claimant's FIP case should not have been closed indefinitely, her FAP benefits should not have been reduced, her MA benefits should not have been terminated and her SER application should not have been denied on the basis that she was noncompliant with OCS.

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 for 3 months. However, Claimant was in compliance

with the OCS effective April 17, 2009 and her FIP case should not have been closed indefinitely, her FAP benefits should not have been reduced, her MA benefits should not have been terminated and her SER application should not have been denied on the basis that she was noncompliant with OCS.

Accordingly, the Department's FIP, FAP, MA and SER eligibility determinations are AFFIRMED in part and REVERSED in part, it is SO ORDERED. The Department shall:

(1) Continue Claimant's FIP case closure from July 1, 2009 through September 30, 2009, but remove the child support sanction that resulted in an indefinite closure of Claimant's FIP case.

(2) Reinstate Claimant's FAP case and MA case retroactive to the date of closure and issue Claimant supplemental benefits she is entitled to, if any.

(3) Process Claimant's SER application as of the date of application without the child support sanction.

(4) Notify Claimant in writing of the Department's revised SER eligibility determination.

(5) Claimant retains the right to request a hearing if she would like to contest the Department's revised SER determination.

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

Date Signed: August 31, 2009

Date Mailed: September 2, 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:

