

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: 2009-33199
Issue No: 1035; 3003
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
November 12, 2009
Gladwin County DHS

ADMINISTRATIVE LAW JUDGE: Jay W. Sexton

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 EXPEDITED in-person hearing was held on November 12, 2009, in Gladwin. Claimant personally appeared and testified under oath.

The department was represented by Rae Ann Lofman (FIM).

ISSUE

Did the department correctly sanction claimant's FIP/FAP/MA case (August 18, 2009) due to claimant's failure to comply with her Work First assignment (July 20, 2009)?

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 and her two minor children are FIP/FAP/MA recipients. Claimant's monthly FIP grant is \$492; her monthly FAP allowance \$540.

(2) All able-bodied FIP/FAP/MA recipients are required to participate in Work First as a condition of eligibility for MA-P/FAP/MA benefits.

(3) In July 2009, claimant was not gainfully employed. Claimant agreed to participate with Work First as a condition of ongoing eligibility for FIP/FAP/MA.

(4) Claimant received a six-month medical deferral. The deferral ended May 5, 2009.

(5) In July 2009, claimant was not totally incapacitated by her dental impairment and related treatments. Claimant received several treatments for her impairment in July 2009.

(6) On July 20, 2009, the JET caseworker assigned claimant to attend Work First job search classes for the period July 21 through July 24, 2009 (four days). Claimant received proper notice of her JET-Work First assignment.

(7) Claimant was “no-show/no-cause” for the period in question.

(8) Work First reported claimant’s noncompliance to DHS. On July 2009, the DHS worker placed claimant’s case in negative action.

(9) On July 27, DHS sent claimant a Notice of Noncompliance (DHS-2444) notifying claimant that a triage appointment (August 4, 2009) was scheduled to determine whether claimant had good cause for her July 2009 Work First noncompliance.

(10) On August 4, 2009, claimant met the DHS/FIM and reported she was unable to complete her July 2009 Work First assignment because she was incapacitated by her dental impairment and subsequent treatments.

(11) Claimant did not provide any doctor’s excuses for the period in question. Claimant did not provide any probative doctor’s excuses for the period in question.

(12) The DHS/FIM decided claimant did not have good cause for her July 2009 Work First noncompliance.

(13) Claimant's case was sanctioned, for two prior Work First noncompliances: April 30, 2007 and November 16, 2008.

(14) Because this is claimant's third Work First noncompliance, the DHS/FIM imposed a one year sanction on claimant's case.

(15) On August 17, 2009, claimant requested a hearing. The proposed negative action was deleted. Claimant's FIP/FAP/MA benefits are currently ongoing.

(16) At the hearing, the ALJ gave claimant until November 19, 2009 to provide a valid/probative doctors' excuse for the July 2009 noncompliance. Claimant did not provide a timely doctor's excuse.

(17) Claimant thinks she should be excused from her July 2009 Work First assignment because she was medically incapacitated in July 2009.

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 Benefit Administrative Manual (BAM), the Benefit Eligibility Manual (BEM) and the Benefit 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. Department policies are found in the Benefit Administrative Manual (BAM), the Benefit Eligibility Manual (BEM) and the Benefit 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 Benefit Administrative Manual (BAM), the Benefit Eligibility Manual (BEM) and the Benefit Reference Manual (BRM).

The department has the following policies with regard to employment requirements for FIP/FAP/MA recipients. The department's Work First policy reads in pertinent part:

DHS requires clients to participate in employment-related activities and to accept employment when offered. Our focus is to assist clients in removing barriers so they can participate in activities which lead to self sufficiency. However, there are consequences where a client refuses to participate in employment-related activities, or refuses to accept employment, without good cause. BEM 233A.

The local office correctly applied JET policy for Gladwin County. The Gladwin County JET policy requires FIP/FAP/MA recipients to participate in Work First as a condition of ongoing eligibility for benefits. See BEM 230A, 230B, 233A, and 233B.

The preponderance of the evidence in the record shows that the JET caseworker properly assigned claimant to attend Work First for the period July 21 through July 24, 2009.

The preponderance of the evidence in the record shows claimant failed to appear for her Work First assignment in July 2009, as scheduled.

Claimant thinks she has established good cause because she received medical treatment for her dental impairment in July 2009.

The department thinks claimant is not entitled to be excused from her July 2009 Work First assignment because she did not timely report her illness and did not request rescheduling of her assignment in a timely fashion.

Since claimant did not complete her July 2009 Work First assignment, the DHS/FIM correctly placed a Work First Noncompliance/JET Sanction on claimant's case on July 27, 2009.

Based on this analysis, the DHS/FIM correctly sanctioned claimant's case due to her failure to comply with her July 2009 Work First Assignment. Furthermore, claimant did not provide a timely and probative good cause reason for her failure to comply with her July 2009 Work First assignment.

After a careful review of the entire record, the Administrative Law Judge concludes there is no evidence of arbitrary or capricious action by the department in sanctioning claimant's FIP/FAP/MA case due to claimant's July 2009 Work First noncompliance.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that claimant's DHS/FIM correctly sanctioned her FIP/FAP/MA case due to claimant's noncompliance with her July 2009 Work First assignment.

Accordingly, the department's action is hereby, AFFIRMED.

SO ORDERED.

/s/ _____
Jay W. Sexton
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: March 10, 2010

Date Mailed: March 10, 2010

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 mailing 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.

JWS/tg

cc:

