

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: 2009-33296

Issue No: 1038

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

September 23, 2009

Jackson 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 September 23, 2009.

ISSUE

Whether the Department properly denied Claimant's Family Independence Program (FIP) 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) On June 9, 2009, Claimant applied for FIP benefits. Claimant reported to the Department at the interview that her daughter, [REDACTED] was no longer in school, but was employed. She also provided the Department with one of [REDACTED] paystubs.

(2) On June 9, 2009, Claimant signed a Work and/or Self-Sufficiency Rules for Cash Recipients. (Exhibit 6)

(3) On June 9, 2009, the Department gave Claimant a Work and/or Self-Sufficiency Rules for Cash Recipients for her daughter to sign and return to the Department. (Exhibit 2)

(4) On June 9, 2009, the Department informed Claimant that her daughter may have to attend WF/JET and Claimant questioned why her daughter would have to do so.

(5) On June 9, 2009, the Department made notes of the conversation with Claimant about her daughter needing to attend WF/JET – “At interview reported Daughter is also working explain Daughter would also be required to attend – gave 1538 for daughter to read/sign and set up appt/w worker for referral to WF – Client then stated if daughter had to participate and had to report income she would most likely not report to work first stated FIP grant would “not be worth the trouble”. (Exhibit 1)

(6) On July 2, 2009, the Department mailed Claimant a Notice of Case Action which informed Claimant that her FIP application had been denied because – “You failed to verify or allow the department to verify information necessary to determine eligibility for this program. (Exhibit 5)

(7) On July 21, 2009, the Department received Claimant’s hearing request protesting the denial of her FIP application. (Hearing Request)

(8) The Department's position at hearing was that Claimant's FIP application was denied because her daughter failed to attend WF/JET by the June 30, 2009 deadline and that a secondary reason would be that she did not provide 30 days worth of paystubs for her daughter. (Exhibit 3,4)

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).

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 [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. 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 [REDACTED]. 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

In the instant case, there was no dispute that there was a conversation between the Department and Claimant about Claimant’s daughter attending WF/JET. While Claimant denied that the Department gave her a Work and/or Self-Sufficiency Rules for Cash Recipients for her daughter to sign and return or that she told the Department that her daughter would most likely not attend WF/JET because it would not be worth the trouble, I think that both occurred and Claimant’s daughter did not attend for the reasons stated by Claimant.

I can understand why Claimant was confused when she received the Notice of Case Action given that it states that Claimant's application was denied for lack of verification, but this Departmental and/or Bridges mistake does not, in turn, entitle her to benefits. Even if I thought that the reason her application was denied was for lack of verification, which I don't, that would only entitle her to an opportunity to provide the missing information and, if her application was subsequently approved, having benefits begin on the June 9th application date. However, I find that her application was denied for the reason stated in the Hearing Summary and at hearing by the Department and that the Department acted in accordance with policy in denying Claimant's FIP application.

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 denying Claimant's FIP application.

Accordingly, the Department's FIP eligibility determination is AFFIRMED, it is SO ORDERED.

/S/
Steven M. Brown
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.

SMB/db

cc:

