

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: 2009-33488

Issue No: 1038

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

September 24, 2009

Kalamazoo County DHS

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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 held on September 24, 2009. Claimant appeared and testified. [REDACTED], claimant's mother, appeared and testified. Valerie McNutt, Case Manager, and Beverly McCall, Jet Coordinator, appeared on behalf of the department.

ISSUE

Did the Department of Human Services (DHS) properly close claimant's Family Independence Program (FIP) benefits case for noncompliance with employment 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 July 2, 200, claimant applied for FIP benefits for a household of four persons.

(2) On July 13, 2009, claimant and her husband reported to Work First orientation; however a referral was only on the system for claimant's husband and not for claimant.

Claimant's husband's orientation was re-scheduled for July 20, 2009. (Department Exhibit 1, pg. 3)

(3) On July 20, 2009, claimant and her husband attended the Work First orientation and reported a barrier with child care. (Department Exhibit 1, pgs. 3 and 5)

(4) The department representative testified that between claimant and her husband the weekly participation requirement would have been 35 hours.

(5) Claimant testified that because of the lack of day care for the minor children, Work First was going to allow claimant to stay at home so long as her husband participated for 20 hours a week.

(6) An Actual Hours Status Page indicates that the required participation hours for claimant's husband were set to 20, the FIP family status is listed as single parent- child under 6, and he was given credit for 2 hours for the week of July 19, 2009, 20 hours for the week of July 26, 2009 and 0 hours for the week of August 2, 2009. (Department Exhibit 2, pg. 16)

(7) Claimant testified that there were some issues initially with the job search logs her husband completed. (Claimant Exhibit 1, pgs. 4-6) However he corrected and resubmitted the logs so he would get credit for the hours.

(8) Case notes regarding the claimant, indicate that the case was placed in triage status by Work First because claimant was not participating in work activities. However, the notes also indicate that claimant was found ineligible after referral and there was an automatic system termination for ineligibility on August 5, 2009. (Department Exhibit 1, pg. 5)

(9) Case notes regarding claimant's husband's case indicate that he was found ineligible after referral and there was an automatic system termination for ineligibility on August 5, 2009. (Department Exhibit 1, pg. 3)

(10) On August 6, 2009 the department issued a Notice of Case Action indicating the FIP benefits were denied for claimant's failure to attend and remain compliant with the JET activities. (Department Exhibit 1, pgs. 7-10)

(11) Claimant filed a Hearing Request to contest the denial on August 13, 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 Dependant Children (ADC) program effective October 1, 1996. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual B) and the Program Reference manuals.

The Family Independence Program (FIP) provides temporary cash assistance to support a family's movement to self-sufficiency. The recipients of FIP engage in employment and self-sufficiency-related activities so they can become self-supporting. Federal and State laws require each work eligible individual (WEI) in the FIP 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. BEM 230A.

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. BEM 230A. A mandatory participant in the JET program who fails without good cause to participate in employment activity must be penalized. BEM Manual Item 233(a). The penalty for the first occurrence of noncompliance in the JET program is a closure for a minimum of three calendar months under the FIP program. BEM Manual Item 233(a). If a customer is found in noncompliance with FIP when they are also a recipient of FAP, their FAP case will also be penalized for a minimum of three months under the JET program. BEM Manual Item 233(b); 42 USC 607. Good cause is a valid reason for noncompliance with employment related activities. A claim of good cause must be verified and documented for applicants, members, and recipients. BEM Manual Item 230(a), BEM Manual Item 230(b); 7 CFR Parts 272 and 273.

In the present case, claimant and her husband were referred to Work First for the required JET participation. The parties disagree as to the required participation hours for claimant and her husband. The department representative testified that 35 hours a week were required between the two parents. Claimant testified that they reported a lack of child care at the Work First Orientation and were told claimant could stay at home so long as her husband participated for 20 hours a week. The case notes for both claimant and her husband indicate a barrier of lack of child care was reported. (Department Exhibit 1, pgs. 3 and 5)

Under BEM 230B, one person who personally provides care for a child under age six in the Food Assistance Program (FAP) group may be deferred from JET participation. The Actual Hours Status Page for claimant's husband does indicate that his required participation hours were set to 20, and the FIP family status is listed as single parent- child under 6. While that claimant

is not a single parent and the record does not address if claimant's household received FAP benefits, the FIP status as listed does support claimant's testimony that she was given a deferral from Work First to provide child care and her husbands required participation hours were set as 20.

Further, under BEM 233A, a lack of child care can also constitute good cause when the client requested Child Day Care Services (CDC) from DHS, the MWA, or other employment services provider prior to case closure for noncompliance and CDC is needed for a CDC-eligible child, but none is appropriate, suitable, affordable and within reasonable distance of the client's home or work site. The case notes document that the child care barrier was reported by claimant and her husband at the Work First Orientation and that a referral was made to CCR.

(Department Exhibit 1, pgs. 3 and 5) However, in the short time between orientation and when the case was terminated, there are no notes indicating if appropriate child care could be found through the CCR referral.

The department further testified that claimant's husband was also noncompliant because he was only given credit for 20 hours the week of July 26, 2009 and no hours the next week. Claimant's husband began participating with Work First on July 20, 2009 and the case notes indicate that claimant and her husband were found ineligible after referral and the paperwork to terminate their case was in process on August 5, 2009. (Department Exhibit 1, pgs. 3 and 5) The Actual Hours Status Page indicates claimant's husband was given credit for 2 hours the week beginning July 19, 2009, 20 hours the week beginning July 26, 2009 and 0 hours the week beginning August 2, 2009. (Department Exhibit 2, pg. 16) The department indicated that the JET subcontractor has changed, only limited records are available and no job search logs were found in claimant file as forwarded from the prior JET contractor. (Department testimony and Department Exhibit 2, pg. 1)

Claimant's husband was not available to participate in the hearing because he was working at a job obtained through the JET program and could not take the time off work as a new employee. Claimant provided credible testimony that there were issues with how her husband completed the job search logs at first, however, he corrected them for re-submission and has provided copied of the rejected logs. (Claimant Exhibit 1, pgs. 4-6) At least some corrected logs must have been accepted as the Actual Hours Status Page shows claimant's husband was given credit under code 13, Job Search and Job Readiness, for 22 total hours. (Department Exhibit 2 pg. 16) It is also noted that the case notes from the Work First program do not indicate any alleged noncompliance by claimant's husband such as not meeting the required participation hours or failure to submit job search logs prior to the termination. (Department Exhibit 1, pgs. 3-4) The alleged noncompliance in the Work First case notes and in the Notice of Case Action was claimant's failure to participate, not her husbands. (Department Exhibit 1, pg. 5 and 7)

Based upon the foregoing facts and relevant law, it is found that that the claimant had good cause for the alleged noncompliance with work activities due to the lack of child care which was reported to the Work First/JET program. Claimant has also provided credible testimony and documentation that her husband was in fact participating in work activities and attempting to submit his job search logs prior to the termination. The Work First case notes do not indicate there was any alleged noncompliance by claimant's husband prior to the termination.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the claimant had good cause for noncompliance with work activities due to the lack of child care.

Accordingly, the Department's FIP eligibility determination is REVERSED. Therefore it is ORDERED that the department reinstate claimant's July 2, 2009 FIP application, in accordance with this decision.

/s/

Colleen Lack
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: October 10, 2009

Date Mailed: October 12, 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 mailing of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the mailing date of the rehearing decision.

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