

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: 2009-34463

Issue No: 1038

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

October 7, 2009

Marquette 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 October 7, 2009. Claimant appeared and testified. Dale Schneider, Program Manager, appeared on behalf of the department.

ISSUE

Whether the department properly closed 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) Claimant applied for FIP benefits on May 5, 2009.
- (2) Claimant attended Michigan Works orientation and the FIP benefits were opened effective June 1, 2009.

(3) On June 2, 2009, the department issued a Notice of Noncompliance because claimant has missed an appointment/meeting and did not participate in required activity the end of May 2009. The notice also indicated triage meeting was scheduled for June 11, 2009 for claimant to report barriers and verify good cause for the noncompliance. (Department Exhibit 1, pg. 6)

(4) Claimant attended the triage meeting and claimant reported a lack of child care as the reason for his noncompliance, however the department did not find that good cause was established. (Department Exhibit 1, pg. 7)

(5) The department closed the FIP benefits effective June 30, 2009 for the noncompliance with Michigan Works.

(6) Claimant mailed multiple hearing requests to the department, however, the department only received the August 27, 2009 fax from claimant requesting a hearing to contest the FIP closure.

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 (BEM) 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 help 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 or second 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. Under BEM 233A, the department must schedule a triage meeting to determine if there was good cause prior to the closure of FIP benefits.

In the present case, Michigan Works reported claimant was noncompliant because he missed an appointment/meeting and did not participate in required activity on May 24, 2009. (Department Exhibit 1, pg. 6) However, this ALJ notes that date was a Sunday, and it is not likely claimant had a Michigan Works assignment over a weekend. It is more likely that the date

listed on the Notice of Noncompliance was actually indicating the week in which the alleged noncompliance occurred.

This is further supported by the reasons for not finding claimant had good cause for the noncompliance as listed on the Good Cause Determination form. The department noted claimant claimed lack of daycare as reason for noncompliance but did not contact Michigan Works regarding his lack of day care or that he was unable to participate due to lack of CDC. The department further noted claimant did not return CDC related documents by the due date on a verification checklist and that his 11-year-old daughter was in school full time so job searching could have been completed during regular school hours. (Department Exhibit 1, pg. 7) If the department found a lack of good cause, in part, because claimant could have participated during school hours, then the noncompliance could not have occurred on Sunday, May 24, 2009.

Claimant testified that he did inform Michigan Works that the lack of child care made it difficult for him to meet the participation requirements. There is no evidence to dispute claimant's testimony as no representative from Michigan Works participated in the hearing and copies of the Michigan Works case notes were not submitted.

Claimant also testified that he had applied for Child Care and Development (CDC) benefits through the department to assist with child care, however he never received any day care benefits. The department has provided additional documentation showing claimant had filed a CDC application in November 2008 along with the provider verification and copies of the providers ID and Social Security card. From this documentation, it appears the provider was approved effective November 9, 2008. (Department Exhibit 2, pgs. VIII- X) However, the department did not approve claimant for CDC benefits at that time because the child had not yet returned to claimant's home. The documentation does note that the child returning to the home

was expected to be approved by the court and would be effective December 9, 2008.

(Department Exhibit 2, pg. I)

The next documentation regarding CDC benefits is a verification checklist issued by the department on May 5, 2009 for claimant to provide the same documents submitted in November 2008, a CDC application, provider verification form and copies of her ID and Social Security card by May 15, 2009. (Department Exhibit 2, pg. IV) The department, per the note on the good cause determination form, apparently did not receive another set of these documents from claimant by the May 15, 2009 due date. (Department Exhibit 1, pg. 7)

Claimant also testified that his daughter was ill the end of May and stayed home from school, which prevented claimant from participating in job search activities during the day because he had to stay at home with his daughter. Claimant has provided documentation from the school that his daughter was out sick one day between May 26, 2009 and June 5, 2009, the last two weeks of the school year. (Claimant Exhibit 2, pg. K) While the school did not list a specific date for the absence, it is not clear from the department's documentation which date(s) claimant missed an appointment/meeting or failed to participate. As noted above, this ALJ finds it unlikely claimant was assigned to a JET activity on Sunday May 24, 2009. If the noncompliance was the week of May 24, 2009, claimant has provided documentation from the school that his daughter was out sick around that time period.

Based upon the foregoing facts and relevant law, it is found that the department has not sufficiently documented noncompliance with employment-related activities without good cause at the end of May 2009. The department has not clearly indicated which specific day(s) claimant missed an appointment or meeting, how many hours of required participation he was short, or what activities he failed to participate in. If claimant only missed one day of participation, he has provided documentation his daughter was home sick from school for a day during the

relevant time period. As it is clear claimant did not have CDC benefits at that time, good cause would be found for staying home with a sick child who was not in school.

Additionally, the evidence does show that the department was aware of claimant's need for CDC benefits since November 2008. It appears that the department was not able to approve the November 2008 application because claimant's daughter had not yet returned to his home. So despite the provider approval in November 2008, claimant was not approved for CDC benefits. Therefore, a new CDC application may be necessary for claimant to be approved for current CDC benefits. If claimant has not already done so, he should provide the department with any additional application or documentation needed to process current CDC benefits.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department has not sufficiently documented noncompliance with employment-related activities without good cause at the end of May 2009.

Accordingly, the department's FIP determination is REVERSED. Therefore it is ORDERED that the department reinstate claimant's FIP benefits retroactive to the June 30, 2009 closure.

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

Date Signed: November 2, 2009

Date Mailed: November 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 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.

CL/cv

cc:

