

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: 2009-36012

Issue No: 1038, 3029

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

October 13, 2009

Calhoun 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 13, 2009. Claimant appeared and testified. Lena Thunder, JET Coordinator, and Julie Ann LaRochelle, Policy Specialist Case Manager Work First/JET program for Calhoun County.

ISSUES

- (1) Whether the department properly closed claimant's Family Independence Program (FIP) benefits case for noncompliance with employment related activities.
- (2) Whether the Department properly penalized claimant's Food Assistance Program (FAP) benefits due to the 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 was an ongoing recipient of FIP and FAP benefits in a household of two persons.

(2) On April 29, 2009, claimant's physician completed a DHS-54A Medical Needs form indicating that claimant was able to work. (Department Exhibit 1, pgs. 6-7)

(3) Claimant attended Work First orientation and began Job Search on June 1, 2009. (Department Exhibit 1, pg. 12)

(4) Claimant began having problems that kept her from meeting the required hours of participation the end of June 2009, however, she was unable to obtain a statement from her doctor that she is unable to work. (Department Exhibit 1, pgs. 9-12)

(5) A triage meeting was held August 6, 2009 and claimant was given additional time to submit a statement from her doctor until August 17, 2009 to document good cause for the non-compliance.

(6) On September 2, 2009, Claimant filed a hearing request to contest the FIP and FAP sanctions.

(7) A doctor's statement was not submitted and the department applied the FIP and FAP sanctions, closed the FIP benefits, and removed claimant from the FAP group effective September 10, 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 Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference manual (PRM).

The Food Assistance Program, 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”), formally known as the Family Independence Agency, administers the FAP program pursuant to MCL 400.10, *et seq* and MAC R 400.3001-3015. Departmental policies are found in the Program Administrative Manual (“PAM”), the Program Eligibility Manual (“PEM”), and the Program Reference Manual (“PRM”).

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. PEM 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. PEM 230 A. A mandatory participant in the JET

program who fails without good cause to participate in employment activity must be penalized. PEM 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. PEM 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. PEM 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. PEM Manual Item 230(a), PEM Manual Item 230(b); 7 CFR Parts 272 and 273. Under PEM 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, claimant indicated she was unable to work or participate in the JET program due to her health. The department requested a statement from her physician supporting claimant's statements that she is unable to work. On April 29, 2009, claimant's physician completed a DHS-54A Medical Needs form; however, the physician indicated that claimant was able to work at her usual occupation and at any job. (Department Exhibit 1, pgs. 6-7) The department then referred claimant to Work First for the required JET program participation.

Claimant attended Work First orientation and began Job Search on June 1, 2009. (Department Exhibit 1, pg. 12) Claimant began having problems that kept her from meeting the required hours of participation the end of June 2009 and Work First requested a statement from her doctor. (Department Exhibit 1, pgs. 9-12) On July 8, 2008, she brought in a prescription slip from her doctor that indicated claimant's medications may cause drowsiness. (Department Exhibit 1, pgs. 9-10) Work First again requested claimant submit a statement from the physician indicating she could not work in order to excuse her from participation in employment related activities. (Department Exhibit 1, pg. 10)

Claimant was unable to obtain a statement from her doctor that she was unable to work and her case was referred for a triage meeting to discuss the noncompliance with the Work First program activities. Claimant did participate in the August 6, 2009 triage and claimed good cause for the noncompliance based on her medical conditions and side effects of her medications. The department gave claimant additional time to document good cause for the noncompliance. Claimant was given until August 17, 2009 to submit a doctor's statement that she is unable to work. (Department Exhibit 1, pgs. 8-9)

Claimant has not been able to obtain a statement from her physician that she is unable to work. At the hearing, claimant submitted a DHS-49 Medical Examination Report signed by her physician March 30, 2009. While this form does indicate some limitations with lifting, it does not indicate claimant is unable to work. (Claimant Exhibit A, pgs. 1-3) The April 29, 2009 DHS 54-A Medical Needs form clearly indicates the physician's opinion that claimant is capable of working. The only other documentation from the physician was submitted on two prescription sheets. The first documented a June 3, 2009 appointment and the second that claimant's medications could cause drowsiness. (Department Exhibit A, pgs, 35-36) There has been no statement from the physician that claimant has been unable to work or participate in employment related activities.

Based upon the foregoing facts and relevant law, it is found that the claimant has not documented good cause for noncompliance with employment-related activities. Therefore, the department properly sanctioned the FIP and FAP benefit cases for noncompliance with work activities by closing claimant's FIP benefits and removing her from the FAP group.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that claimant has not documented good cause for the noncompliance with

required work activities and therefore the department properly closed the FIP benefits and removed claimant from the FAP group.

Accordingly, the Department's FIP and FAP eligibility determinations are
AFFIRMED.

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

Date Signed: October 22, 2009

Date Mailed: October 23, 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:

A large black rectangular redaction box covers the names of the recipients listed in the 'cc:' field.