

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: 2009-9659
Issue No: 1038; 2006
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
February 18, 2009
Washtenaw County DHS

ADMINISTRATIVE LAW JUDGE: Suzanne L. Keegstra

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 February 18, 2009. The claimant personally appeared and testified.

ISSUE

1. Did the department properly deny the claimant's application for Medical Assistance (MA) benefits in September 2008?
2. Did the department properly deny the claimant's application for Family Independence Program (FIP) benefits in September 2008?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

1. The claimant submitted an application for MA and FIP on August 14, 2008.

2. On August 14, 2008, the department gave the claimant a Work First/Jobs, Education and Training (WF/JET) Appointment Notice (DHS-4785), setting September 2, 2008, as the claimant's WF/JET orientation date (Department Exhibit #2). The claimant was also given a gas card to enable her to get to her WF/JET orientation (Hearing Summary).

3. On August 19, 2008, the claimant called the department representative and stated that she needed assistance with her car registration and insurance. The caseworker returned her call and informed her that she could not assist with transportation issues until she was enrolled and attending WF/JET, but provided her with information on applying for emergency services with DHS and also gave her names and telephone numbers to the [REDACTED] and [REDACTED], who may have resources to help her (Department Exhibit #4).

4. On August 27, 2008, the claimant mailed a letter to the department indicating that she was having transportation issues which were preventing her and her husband from being able to attend their JET appointment (Department Exhibit #5).

5. On September 4, 2008, the department mailed the claimant a letter that indicated she was not eligible for State Emergency Relief (SER) and again referred her to an enclosed list of agencies for assistance (Department Exhibit #6).

6. The claimant did not report for her WF/JET orientation appointment on September 2, 2008.

7. The claimant's application for FIP benefits was denied on September 16, 2008, for failure to attend the WF/JET program (Department Exhibit #1).

8. The claimant's application for MA was denied on September 16, 2008, due to the claimant's failure to provide verification of her assets.

9. Department testimony established that the MA denial due to failure to provide verification was in error, as the department representative found the claimant's verification of

assets (bank statements) in the claimant's file and determined that the verifications had been turned in on August 29, 2008, which was within required time limits. Thus, the department representative agreed to re-open the claimant's MA case retroactively to the date of application.

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 Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

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 Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

Department policy states:

FIP

DHS requires clients to participate in employment and self-sufficiency-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 for a client who refuses to participate, without good cause.

The goal of the FIP penalty policy is to obtain client compliance with appropriate work and/or self-sufficiency-related assignments

and to ensure that barriers to such compliance have been identified and removed. The goal is to bring the client into compliance.

Noncompliance may be an indicator of possible disabilities. Consider further exploration of any barriers.

DEPARTMENT POLICY

FIP

A Work Eligible Individual (WEI), see PEM 228, who fails, without good cause, to participate in employment or self-sufficiency-related activities, must be penalized.

See PEM 233B for the Food Assistance Program (FAP) policy when the FIP penalty is closure. For the Refugee Assistance Program (RAP) penalty policy, see PEM 233C. PEM 233A, p. 1.

NONCOMPLIANCE WITH EMPLOYMENT AND/OR SELF-SUFFICIENCY-RELATED ACTIVITIES

As a condition of eligibility, all WEIs and non-WEIs must work or engage in employment and/or self-sufficiency-related activities. 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) or PRPFC.
 - .. Appear for a scheduled appointment or meeting.

- .. 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. PEM 233A, pp. 1-2.

GOOD CAUSE FOR NONCOMPLIANCE

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. Document the good cause determination on the DHS-71, Good Cause Determination and the FSSP under the “Participation and Compliance” tab.

See “School Attendance” PEM 201 for good cause when minor parents do not attend school.

Employed 40 Hours

Client Unit

Good cause includes the following:

- . The person is working at least 40 hours per week on average and earning at least state minimum wage.
- . The client is physically or mentally unfit for the job or activity, as shown by medical evidence or other reliable information. This includes any disability-related limitations that preclude participation in a work and/or self-sufficiency-

related activity. The disability-related needs or limitations may not have been identified or assessed prior to the noncompliance.

Illness or Injury

The client has a debilitating illness or injury, or an immediate family member's illness or injury requires in-home care by the client.

Reasonable Accommodation

The DHS, employment services provider, contractor, agency, or employer failed to make reasonable accommodations for the client's disability or the client's needs related to the disability. PEM 233A, pp. 3-4.

No Child Care

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.

- . **Appropriate.** The care is appropriate to the child's age, disabilities and other conditions.
- . **Reasonable distance.** The total commuting time to and from work and child care facilities does not exceed three hours per day.
- . **Suitable provider.** The provider meets applicable state and local standards. Also, providers (e.g., relatives) who are NOT registered/licensed by the DHS Office of Child and Adult Services must meet DHS enrollment requirements for day care aides or relative care providers. See PEM 704.
- . **Affordable.** The child care is provided at the rate of payment or reimbursement offered by DHS.

No Transportation

The client requested transportation services from DHS, the MWA, or other employment services provider prior to case closure and reasonably priced transportation is not available to the client.

Illegal Activities

The employment involves illegal activities.

Discrimination

The client experiences discrimination on the basis of age, race, disability, gender, color, national origin, religious beliefs, etc. PEM 233A, p. 4.

Unplanned Event or Factor

Credible information indicates an unplanned event or factor which likely prevents or significantly interferes with employment and/or self-sufficiency-related activities. Unplanned events or factors include, but are not limited to the following:

- . Domestic violence.
- . Health or safety risk.
- . Religion.
- . Homelessness.
- . Jail.
- . Hospitalization.

Comparable Work

The client quits to assume employment comparable in salary and hours. The new hiring must occur before the quit.

Long Commute

Total commuting time exceeds:

- . Two hours per day, NOT including time to and from child care facilities, **or**
- . Three hours per day, including time to and from child care facilities. PEM 233A, pp.4-5.

NONCOMPLIANCE PENALTIES AT APPLICATION

Noncompliance by a WEI while the application is pending results in **group** ineligibility. A WEI applicant who refused employment

without good cause, within 30 days prior to the date of application
or while the application is pending must have benefits delayed.

In this case, the claimant and the department have reached an agreement on the handling of the MA benefit appeal. The department had denied the claimant's MA application for failure to provide asset verifications. However, when reviewing the case file, the caseworker discovered that the requested verifications had been submitted by the claimant within the required time limits. Thus, the department representative agreed to open the case retroactive to the date of application.

Thus, the only issue still to be determined by this Administrative Law Judge is the denial of the claimant's FIP benefit application for noncompliance with WF/JET activities. The claimant and her husband were scheduled to go to WF/JET orientation on September 2, 2008. The claimant does not dispute that she and her husband did not attend the required orientation, but the claimant testified that she could not attend due to transportation issues.

The claimant testified that she and her husband have a car, but that her registration and insurance was not paid up-to-date so she could not use the vehicle for transportation. She testified that she requested help from the department to pay the registration and insurance and was denied. The claimant did submit a State Emergency Relief (SER) application for help with the car registration and insurance, but this application was denied as claimant's situation did not fit the criteria for SER help. Testimony established that the claimant was given a gas card to pay for transportation to WF/JET. The claimant was also given a list of service agencies that might be able to help with transportation issues.

The claimant first indicated that she couldn't get anyone to drive her to JET. She then testified that her mother currently did all the driving for her family. The claimant admitted that her mother could have driven her and her husband to the WF/JET appointment, but testified that

she didn't feel she could ask her to drive her to her WF/JET appointments each day because she lived on the other side of town. Transportation issues can be good cause for WF/JET noncompliance according to department policy. In this case, the claimant did request help with transportation from the department. The question that must be answered in this hearing decision is if the department provided an appropriate level of help to the claimant. The claimant testified that the department did give her a gas card to use to get to her WF/JET orientation. The claimant also testified that her mother could have transported her to the WF/JET orientation. Thus, this Administrative Law Judge does find that the claimant could have made it to her WF/JET orientation. Any further barriers with transportation issues could have been addressed by WF/JET staff once she began attending WF/JET, but the claimant did have the responsibility to make arrangements to get there.

In this case, the claimant and her husband did not make arrangements to get to WF/JET. According to policy the appropriate penalty for JET noncompliance while the application is pending, is application denial. Thus, the department took proper action when they denied the claimant's application.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that:

1. The department and the claimant did reach an agreement to re-open the MA case retroactive to the date of application as the claimant did provide the requested verifications within the time limits.

2. The department did properly deny the claimant's FIP application for failure to participate with WF/JET requirements. Accordingly, the decision is AFFIRMED. SO ORDERED.

/s/ _____
Suzanne L. Keegstra
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: February 26, 2009

Date Mailed: February 27, 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 receipt date of the rehearing decision.

SLK 

cc: 