

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.: 2010-12430
Issue No.: 1038
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
June 3, 2010
Wayne County DHS (35)

ADMINISTRATIVE LAW JUDGE: Colleen M. Mamelka

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the Claimant's request for hearing. After due notice, a hearing was held in Detroit, Michigan on Thursday, June 3, 2010. The Claimant appeared and testified. [REDACTED] and [REDACTED] appeared on behalf of the Department.

ISSUE

Whether the Department properly terminated the Claimant's cash assistance ("FIP") effective April 2010?

FINDINGS OF FACT

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

1. The Claimant was a FIP recipient.
2. On September 24, 2009, the Claimant's case was referred to triage due to JET non-compliance. (Exhibit 5)

3. On October 22nd, a triage was held and the Claimant stated that the non-compliance was due to her daughter's illness.
4. The Claimant was provided time to submit proof of the daughter's medical care.
5. On November 10, 2009, the Department pended the case for closure because no recent medical records for the period at issue were submitted.
6. On or about November 18, 2009, the Claimant submitted a letter from a hospital confirming her daughter received medical care and that it was necessary for the Claimant to attend her daughter's appointments. (Exhibit 1)
7. The Claimant submitted another letter reportedly from grandmother stating that the Claimant is a care provider for her grandparents. (Exhibit 2)
8. The Claimant submitted a certificate to return to work/school which provided that due to a severe insect bite, the Claimant was unable to work/attend school as of September 21, 2009. (Exhibit 4)
9. The Claimant was enrolled in college for the Fall of 2009.
10. The Claimant's daughter is a full-time high school student. (Exhibit 3)
11. On November 19, 2009, the Department received the Claimant's written request for hearing.
12. As a result of the timely hearing request, the negative action was deleted.
13. On [REDACTED], the Claimant's physician authored a note certifying that the Claimant was treated in his office on [REDACTED] following an emergency room visit for an insect bite where she was placed on antibiotics.

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 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 Bridges Reference Manual (“BRM”).

DHS requires clients to participate in employment and self-sufficiency related activities and to accept employment when offered. BEM 233A As a condition of eligibility, all Work Eligible Individuals (“WEI”) must engage in employment and/or self-sufficiency related activities. BEM 233A The WEI is considered non-compliant for failing or refusing to appear and participate with the Jobs, Education, and Training Program (“JET”) or other employment service provider. BEM 233A 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. BEM 233A Failure to comply without good cause results in FIP closure. BEM 233A The first and second occurrences of non-compliance results in a 3 month FIP closure. BEM 233A

JET participants will not be terminated from a JET program without first scheduling a triage meeting with the client to jointly discuss noncompliance and good cause. BEM 233A In processing a FIP closure, the Department is required to send the client a notice of non-compliance, DHS-2444, which must include the date(s) of the non-compliance; the reason the client was determined to be non-compliant; and the penalty duration. BEM 233A In addition, a

triage must be held within the negative action period. BEM 233A A good cause determination must be made prior to the negative action effective date. BEM 233A

In this case, the Claimant's reason for JET non-compliance was due to having care for her ill daughter which included attending doctor appointments. The Department allowed the Claimant sufficient time to bring in current medical evidence which would establish that the Claimant was unable to participate however the only evidence submitted were older records and a letter stating that the daughter receives medical treatment. Hospital records revealed treatment on [REDACTED], [REDACTED], and [REDACTED]. Importantly, there was no evidence to support the Claimant's assertion that she was unable to participate at all during the month of September 2009. In addition, this record was extended two weeks to allow the Claimant to submit school attendance records, both for the Claimant and for her daughter. Confirmation of the Claimant's fall college enrollment was submitted however the daughter's school attendance records were not. Further, the Claimant submitted evidence that she received treatment for an apparent insect bite on [REDACTED]. The physician statement confirms treatment and orders the Claimant to return to school however the return date is not legible and appears to be [REDACTED]. Although the Claimant provided some evidence which established good cause for a few days, this evidence did not establish that the Claimant was unable to fulfill the requirements of the JET program since the end of July. In light of the foregoing, the Department established it acted in accordance with department policy when it pended the Claimant's FIP benefits for closure. Accordingly, the Department's determination is AFFIRMED.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds the Department acted in accordance with department policy when it terminated the Claimant's FIP benefits.

Accordingly, it is ORDERED:

1. The Department's FIP determination is AFFIRMED.
2. A 3-month FIP sanction is imposed from the date of closure based upon the JET non-compliance in accordance with department policy.

Colleen M. Mamelka

Colleen M. Mamelka
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 6/23/2010

Date Mailed: 6/23/2010

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.

CMM/jlg

cc:

