

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.: 2010-12619
Issue No.: 1038
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
June 17, 2010
Macomb County DHS (12)

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 a hearing. After due notice, a hearing was held in Clinton Township, Michigan on Thursday, June 17, 2010. The Claimant appeared and testified. [REDACTED] appeared on behalf of the Department.

ISSUE

Whether Department properly terminated the Claimant's FIP case due to her failure to participate in the Jobs, Education, and Training ("JET") program?

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 is a FIP recipient.
2. The Claimant was previously deferred from JET participation.
3. On July 29, 2009, the Sterling Heights DHS office sent a JET appointment notice to the Claimant instructing her to attend the program on August 3, 2009. (Exhibit 2)

4. On July 29th, the Claimant's physician faxed to the Sterling Heights DHS office a completed Medical Needs form and Medical Examination Report which indicated that the Claimant was unable to work at this time. (Exhibit 3)
5. The Department forwarded the Claimant's medical evidence to the Medical Review Team ("MRT") for consideration.
6. The Claimant did not attend the August 3rd JET appointment.
7. On August 6, 2009, the MRT found the Claimant not disabled for purposes of JET participation. (Exhibit 5)
8. On August 19, 2009, the Clinton Township DHS office sent a JET appointment notice for August 31, 2009. (Exhibit 1)
9. The Claimant denied receipt of the August 19th notice thus did not attend the August 31st JET appointment.
10. On November 5, 2009, the Clinton Township DHS office sent a Notice of Noncompliance to the Claimant instructing her to attend a triage on November 12th. (Exhibit 4)
11. The Clinton Township DHS office did not have the Claimant's medical records which resulted in a no good cause determination and the imposition of the JET sanction.
12. On December 4, 2009, the Department received the Claimant's timely written request for hearing.
13. During the hearing, the Claimant submitted documentation establishing that she needs a cerebral angiogram. (Exhibit 6)

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 the Bridges Reference Manual (“BRM”).

DHS requires clients to participate in employment and self-sufficiency related activities and to accept employment when offered. BEM 233A All Work Eligible Individuals (“WEI”), unless deferred, are required to must engage in employment or participate in other approved activities. BEM 230A 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 Good cause must be verified and documented. BEM 233A Good cause exists when a client is physically or mentally unfit for the job or activity as shown by medical evidence or other reliable information. 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

Deferrals from JET participation are temporary. BEM 230A Short-term incapacity expected to last less than three months are deferred for up to three months. BEM 230A Persons with a mental or physical illness, limitation, or incapacity expected to last more than 90 days may

be deferred for more than three months. BEM 230A Clients in this category may be referred to the Michigan Rehabilitation Services (“MRS”). The client is required to provide verification from their doctor. BEM 230A A Medical Needs form or Medical Examination Report may be used. BEM 230A When verification indicates the disability will last more than three months the disability screen is documented; a Medical Review Date is entered for a three month follow up; the client is required to sign a release (DHS 1555E); and a request for a MRS consultation is made. BEM 230A

JET participants are not terminated from the program without first scheduling a triage meeting to discuss the non-compliance and good cause. BEM 233A Clients must comply with the triage requirements within the negative action period. BEM 233A Good cause is based upon the best information available during the triage and prior to the negative action date. BEM 233A Good cause may be verified by information already on file. BEM 233A If the client does not provide a good cause reason within the negative action period, good cause is determined based upon the best information available. BEM 233A

In this case, the Claimant was referred to the JET program. Prior to the appointment, the Claimant’s physician faxed a Medical Needs form and Medical Examination Report indicating at that point (July 2009) that the Claimant was not able to work for at least six weeks while medical tests were performed. (At the time of hearing, the Claimant was still under going tests and was scheduled for surgery) The records were forwarded to the MRT. Prior to the determination, the Claimant was scheduled for JET participation. The Claimant, who was previously deferred, did not attend. Subsequently, the MRT determined that the Claimant was able to participate in the JET program. On August 19, 2009, the Claimant was referred to the JET program. The Claimant denied receipt of this appointment notice. As a result of the “no show” for the JET

program, the Claimant was referred to triage. During triage, the Department did not have any of the Claimant's medical records. Apparently these records were at another local office. The Claimant was found to not have good cause for the non-compliance although the Department acknowledged that the medical records would have likely made a difference in the determination. Ultimately, the Claimant timely submitted the required medical documentation supporting a deferral and/or a referral to the MRS. The Claimant was previously deferred from the JET program but was never referred to the MRS due to budget constraints. Ultimately, under the facts presented, the Claimant established good cause for not participating with the JET program based on the submitted verifications. The Department's termination of FIP benefits is REVERSED.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Claimant established good cause for the JET non-compliance.

Accordingly, it is ORDERED:

1. The Department's determination to terminate the Claimant's FIP benefits is REVERSED.
2. The 3-month sanction is not imposed.
3. The Department shall reinstate the Claimant's FIP benefits from the closure date and supplement for lost benefits (if any) that the Claimant was entitled to receive if otherwise eligible and qualified.

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:

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