STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

███████████

Claimant,

Reg No: 2010-17726
Issue No: 1038
Case No: ████████
Load No: ████████
Hearing Date:
April 22, 2010
Kent County DHS

ADMINISTRATIVE LAW JUDGE: Steven M. Brown

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 conducted from Lansing, Michigan on April 22, 2010.

ISSUE

Whether the Department properly terminated Claimant's Family Independence Program (FIP) benefits and reduced her Food Assistance Program (FAP) benefits?

FINDINGS OF FACT

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

(1)   Claimant was a recipient of FIP and FAP benefits and a mandatory Work First/Jobs, Employment and Training (WF/JET) participant.

(2)   On December 16, 2009, the Department was informed by WF/JET that Claimant was in noncompliance with WF/JET requirements – unexcused absences on December 15, 2009 and December 16, 2009. (Exhibit 2)

(3)   On January 6, 2010, a triage meeting was held with Claimant and WF/JET at the WF/JET office and the Department in attendance by telephone. Claimant explained that she was in training for employment on the dates in question and had a written statement from the employer's manager, but had misplaced it. WF/JET declined the phone # provided by Claimant and requested written documentation by the end of the day. The Department called Claimant's potential employer and confirmed that Claimant was in training on both dates. Written documentation was provided to the Department the next day. (Exhibits 3-4)

(4)   The Department found good cause for Claimant's WF/JET noncompliance. WF/JET found no good cause because either 1) written documentation was not timely provided, 2) it was not paid training nor was it training that would lead towards paid work or 3) Claimant was on probationary status due to unexcused absences. (Exhibits 5-6, 13-15)

(5)   On January 7, 2010, the Department sent Claimant a Notice of Case Action informing Claimant that her FIP benefits would terminate and her FAP benefits would decrease effective February 1, 2010. (Exhibits 7-9)

(6)   On January 14, 2010, the Department received Claimant's hearing request.

<div align="center">CONCLUSIONS OF LAW</div>

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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM).

The Food Assistance Program (FAP) (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 or department), administers the FAP program pursuant to MCL 400.10, *et seq.,* and MAC R 400.3001-3015. Departmental policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Bridges Reference Manual (BRM).

Department policy states that clients must be made aware that public assistance is limited to 48 months to meet their family's needs and that they must take personal responsibility to achieve self-sufficiency. This message, along with information on ways to achieve independence, direct support services, non-compliance penalties, and good cause reasons, is initially shared by DHS when the client applies for cash assistance. Jobs, Education and Training (JET) program requirements, education and training opportunities, and assessments will be covered by the JET case manager when a mandatory JET participant is referred at application. BEM 229, p. 1.

Federal and State laws require each work eligible individual (WEI) in the FIP and RAP 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. 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. A WEI who refuses, without good cause, to participate in assigned employment and/or self-sufficiency-related activities is subject to penalties. BEM 230A, p. 1.

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).

    - Provide legitimate documentation of work participation.

    - Appear for a scheduled appointment or meeting related to assigned activities.

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

The Department is required to send a DHS-2444, Notice of Employment and/or Self-Sufficiency Related Noncompliance within three days after learning of the noncompliance which must include the date of noncompliance, the reason the client was determined to be noncompliant, the penalty that will be imposed and the triage date within the negative action period. BEM 233A, p. 7-8

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. If it is determined at triage that the client has good cause, and good cause issues have been resolved, the client should be sent back to JET. BEM 233A, p. 3-4

Good cause should be determined based on the best information available during the triage and prior to the negative action date. Good cause may be verified by information already on file with DHS or MWA. Good cause must be considered even if the client does not attend, with particular attention to possible disabilities (including disabilities that have not been diagnosed or identified by the client) and unmet needs for accommodation. BEM 233A, p. 7

The penalty for noncompliance without good cause is FIP closure. Effective April 1, 2007, the following minimum penalties apply:

- For the first occurrence on the FIP case, close the FIP for not less than 3 calendar months unless the client is excused from the noncompliance as noted in "First Case Noncompliance Without Loss of Benefits" below.

- For the second occurrence on the FIP case, close the FIP for not less than 3 calendar months.

- For the third and subsequent occurrence on the FIP case, close the FIP for not less than 12 calendar months.

- The penalty counter also begins April 1, 2007 regardless of the previous number of noncompliance penalties. BEM, p.6

Noncompliance, without good cause, with employment requirements for FIP/RAP (SEE BEM 233A) may affect FAP if both programs were active on the date of the FIP noncompliance. BEM 233b, p. 1 The FAP group member should be disqualified for noncompliance when all the following exist:

• The client was active both FIP and FAP on the date of the FIP

noncompliance, and

• The client did not comply with FIP/RAP employment requirements, and

• The client is subject to a penalty on the FIP/RAP program, and

• The client is not deferred from FAP work requirements (see DEFERRALS in PEM 230B), and

• The client did not have good cause for the noncompliance. PEM 233B, p. 2

The Department should budget the Last FIP grant amount on the FAP budget for the number of months that corresponds with the FIP penalty (either three months for the first two noncompliances or 12 months for the third and subsequent noncompliances) after the FIP case closes for employment and/or self sufficiency-related noncompliance. The Last FIP grant amount is the grant amount the client received immediately before the FIP case closed. BEM 233B, p. 2

The Department should budget the Last FIP for three or 12 months whether or not the noncompliant person is disqualified from FAP. If a FIP penalty is imposed; the Last FIP grant amount must be budgeted. The Department should budget the Last FIP amount only when the client was receiving FAP on the date of the FIP noncompliance. If the client was only applying for FIP and violated a FIP employment and/or self-sufficiency-related requirement, the FAP grant would not be affected. BEM 233B, p. 2

If the FIS, JET case manager, or MRS counselor do not agree as to whether good cause exists for a noncompliance, the case must be forwarded to the immediate supervisors of each party involved to reach an agreement. BEM 233A, p. 7

In the instant case, there is no question that there was a disagreement between the Department and WF/JET on the good cause determination and it was not resolved

according to policy. With that said, based on the testimony and documentation offered at hearing, I do not find that the Department established that it acted in accordance with policy in terminating Claimant's FIP benefits and reducing her FAP benefits.

<div align="center">DECISION AND ORDER</div>

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, does not find that the Department acted in accordance with policy in terminating Claimant's FIP benefits and reducing her FAP benefits. Accordingly, the Department's FIP and FAP eligibility determinations are REVERSED, it is SO ORDERED. The Department shall:

(1)   Reinstate Claimant's FIP benefits retroactive to the closure date, if not already done.

(2)   Issue Claimant supplemental benefits she is entitled to, if any.

(3)   Make a good cause determination as to Claimant's alleged WF/JET noncompliance.

(4)   Notify Claimant in writing of the Department's revised determination.

(5)   Claimant retains the right to request a hearing if she would like to contest the Department's revised determination.

/s/
Steven M. Brown
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: May 5, 2010

Date Mailed: May 6, 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 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.

SB/lk

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