

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: 2010-23758
Issue No: 1001, 1038
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
May 10, 2010
Kent County DHS

ADMINISTRATIVE LAW JUDGE: [Lauren S. Harkness](#)

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 hearing was held via telephone on May 10, 2010. Claimant appeared and participated as did Sarah Wildman, Case Manager, and Irene Middleton, Family Independence Manager, on behalf of the Department of Human Services.

ISSUE

Did the Department act in conformity with its policies in closing the claimant's Family Independence Program (FIP) cash assistance due to her daughter's alleged non-compliance with the work or self-sufficiency requirements for that 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) Claimant and her family had been receiving cash assistance under the Family Independence Program. (FIP)

(2) Claimant's 16 year old daughter had been temporarily deferred from participating in the employment related activities because she was enrolled in and attending a local public high school.

(3) In the early fall of 2009, the Department sent a written inquiry to the high school seeking information about the daughter's enrollment and attendance. The high school returned the form bearing a date of October 7, 2009, and indicating that the daughter was a "full time student" and checking a box indicating that the daughter was "attending sometimes." The form also included a comment that, since the start of the school year, the daughter had missed 32 class periods and had been marked "unexcused" for these class periods. Exhibit 1.

(4) The Department then referred the daughter to the Jobs, Education and Training (JET) program because of her poor school attendance. The appointment was set for December 14, 2009 and written notice was sent to Claimant.

(5) Claimant telephoned the Department on December 14, 2009 to inform the Department that the daughter could not attend that day. Claimant was then told that the daughter's last day to meet the JET requirement was December 23, 2009.

(6) The daughter did not attend the JET program at any time before December 23, 2009. The school attendance records show that school was not in session during that calendar week. Exhibit 7.

(8) Claimant and her daughter were both sent written notice to attend a triage meeting set for January 25, 2010. Neither appeared for that meeting nor did either Claimant or the daughter attempt to get the meeting rescheduled.

(9) Claimant testified that her daughter did not attend the triage meeting because she attended school that day. The attendance records support this testimony.

(10) Claimant did not attend the triage because she was under a doctor's care for pneumonia at that time according to her testimony at the hearing.

(11) The testimony shows that Claimant and/or her daughter had been penalized for non-compliance with the JET participation requirements at least two times prior to this current instance.

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 (formerly known as the Family Independence Agency) 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 Program Reference Manual (PRM).

DEPARTMENT POLICY FIP

Federal and state laws require each work eligible individual (WEI) in the FIP and RAP group to participate in Jobs, Education and Training (JET) Program or other employment-related activity unless temporarily deferred or engaged in activities that meet participation requirements.

BEM 230A p. 1

MANDATORY PARTICIPANTS DELAYED REFERRAL TO EMPLOYMENT SERVICES

WEIs meeting one of the following criteria are only temporarily not referred to an employment service provider because they may continue to count in the state's federal work participation rate. They are required to participate in activities that will increase their full potential, help them overcome barriers and prepare them for employment or referral to an employment services provider as soon as possible. If the WEI refuses or fails to provide verification of a deferral when required, refer him/her to JET.

Dependent Children

A dependent child age 16 or 17, who is **not** deferred or otherwise meeting participation requirements, must be referred to JET if the child has not completed high school and either quits school and refuses to return or the school system will **not** permit the child to return.

Note: Do **not** impose a penalty on a dependent child for **not** attending school. Refer the child to JET. If the child does **not** comply with JET, apply penalties per BEM 233A.
BEM 230A p. 6

Meeting Participation Through Education

Clients who are WEIs and full-time students in elementary or high school are noted here. Age 16 or 17 Full-time high school students are given the participation of Secondary Education. They are neither required to submit a FAST, develop an FSSP, nor participate in employment services **as long as they continue full-time school attendance.**

BEM 230A p. 7 [Emphasis added.]

Claimant's daughter had been properly deferred from JET participation only as long as she continued to attend school full-time. Failing that, claimant's daughter was properly referred to JET.

HOURS OF ENROLLMENT AND ATTENDANCE

FIP and FAP

Schools determine:

- The level of enrollment, (i.e.; full-time, half-time, or part -time);
- and
- Attendance compliance; and
- Suspensions, (i.e.; reasons for/duration).

BEM 245 p 4.

The large proportion of class periods Claimant's daughter missed due to unexcused absences at the start of the school year warranted her referral to JET.

TRIAGE

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. Locally coordinate a process to notify the MWA case manager of triage meetings including scheduling guidelines. Clients can either attend a meeting or participate in a conference call if attendance at the triage meeting is not possible. If a client calls to reschedule an already scheduled triage meeting, offer a phone conference at that time. Clients must comply with triage requirements within the negative action period.

* * *

Determine good cause 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 . .

Note: Clients not participating with JET must be scheduled for a triage meeting between the FIS and the client.

BEM 233A p. 7

Claimant's daughter's failure to attend any JET activity on or before December 22, 2009, was without good cause where the only rationale offered for her non-compliance was her need to attend school but her school was not in session that day or that week.

NONCOMPLIANCE PENALTIES FOR ACTIVE FIP CASES AND MEMBER ADDS

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 three 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 three calendar months.

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

Claimant's and her daughter's two or more prior instances of non-compliance warrants the imposition of the 12 month penalty here.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the Department of Human Services acted properly within its policies in sanctioning the claimant's Family Independence Program cash assistance for twelve months for failure to participate in employment and/or self-sufficiency related activities without good cause.

It is ORDERED that the actions of the Department of Human Services are UPHeld in this matter.

/s/ _____
Lauren S. Harkness
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: July 15, 2010

Date Mailed: July 15, 2010

NOTICE: The law provides that within 30 days of receipt of the above Decision and Order the claimant may appeal it to the circuit court for the county in which he/she lives. Administrative Hearings, on its own motion, or on request of a party within 30 days of the receipt of this Decision and Order, may order a rehearing. Administrative Hearings will not order a rehearing on the agency's motion where the final decision or rehearing cannot be implemented within 90 days of the filing of the original hearing request.

LSH/tg

cc:

