

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: 2010-25903

Issue No: 1038

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

June 3, 2010

Bay 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 June 3, 2010.

ISSUE

Whether the Department properly terminated Claimant's Family Independence Program (FIP) benefits and decreased his 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 FIP and FAP recipient.
- (2) Claimant informed the Department that he was disabled so the Department provided him with the applicable medical forms and sent his completed and returned medical packet to the Medical Review Team (MRT).

(3) On June 22, 2009, MRT stated in its decision that Claimant could participate with JET with some limitations. (Exhibits 4-6)

(4) On October 22, 2009, the Department sent Claimant a Jobs, Education and Training Appointment Notice with an appointment date of November 2, 2009. (Exhibit 7)

(5) On November 20, 2009, the Department sent Claimant a Notice of Noncompliance which stated in pertinent part - "Records show that you have refused or failed to participate as required in employment and/or self sufficiency related activities for FIP, RAP and FAP as noted below:.....A meeting has been scheduled to give you an opportunity to report and verify your reasons for non-compliance." (Exhibit 8)

(6) On November 30, 2009, Claimant signed a First Noncompliance Letter agreeing to participate with Work First for 30 hours from December 7, 2009 to December 11, 2009. (Exhibit 9)

(7) On December 1, 2009, the Department sent Claimant a Jobs, Education and Training Appointment Notice with an appointment date of December 7, 2009. (Exhibit 10)

(8) On December 7, 2009, Claimant appeared at Work First, but he did not participate because he reported having chest pains and went to see his physician.

(9) On December 10, 2009, the Department sent Claimant a Notice of Case Action which informed him that his FIP benefits would terminate effective January 1, 2010 as a result of his FIP noncompliance. (Exhibits 11-12)

(10) On December 14, 2009, the Department received Claimant's hearing request protesting the termination of his FIP benefits. Attached was a December 7, 2009 note from [REDACTED] which stated that Claimant was "under medical care from May 2008" and was "unable to work or attend Work First for 6 months. (Exhibits 1-2)

(11) On January 7, 2010, the Department sent Claimant a Notice of Case Action which informed him that his FAP benefits would be reduced effective February 1, 2010 as a result of his FIP noncompliance. (Exhibits 13-14)

(12) On January 15, 2010, the Department received Claimant's hearing request protesting the reduction of his FAP benefits. (Exhibit 3)

(13) On February 4, 2010, the Department met with Claimant for a pre-hearing conference. The Department explained that it had not received any further medical documentation from Claimant and/or his medical providers. The Departments sent documentation from November and December 2009 to MRT. MRT's March 4, 2010 decision was again that Claimant could participate in Work First with some limitations. (Exhibits 15-18)

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 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

In the instant case, the Department considered Claimant's disability claim. MRT issued a deferment denial so Claimant was scheduled to attend WF/JET. He did not attend and signed a First Noncompliance Letter acknowledging the noncompliance and agreeing to participate with WF/JET. Claimant did not attend his next WF/JET appointment either so he was considered noncompliant. MRT issued another deferment denial a couple of months later.

With the above said, based on the testimony and documentation offered at hearing, I find that the Department established that it acted in accordance with policy in terminating Claimant's FIP benefits and reducing his FAP benefits.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department acted in accordance with policy in terminating Claimant's FIP benefits and reducing his FAP benefits.

Accordingly, the Department's FIP and FAP eligibility determinations are AFFIRMED, it is SO ORDERED.

/s/

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

Date Signed: June 7, 2010

Date Mailed: June 8, 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.

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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.

SMB/vc

cc:

