

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: 2010-29646

Issue No: 1038, 2018,
3008, 6019

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

May 26, 2010

Washtenaw 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 May 26, 2010.

ISSUE

Whether the Department properly denied Claimant's application for Child Development and Care (CDC) and Family Independence Program (FIP) benefits and properly closed Claimant's Food Assistance Program (FAP) and Medical Assistance (MA) cases?

FINDINGS OF FACT

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

(1) On August 27, 2009, Claimant applied for FIP benefits. Claimant was active FAP and MA. (Exhibit 1)

(2) On September 26, 2009, the Department sent Claimant an Appointment Notice, DHS-170, with an appointment date of October 6, 2009. (Exhibit 2)

(3) On October 6, 2009, Claimant attended the FIP appointment and was given a Jobs, Education and Training Appointment Notice with an appointment date of October 19, 2010. (Exhibit 3)

(4) On October 6, 2009, Claimant applied for Child Development and Care (CDC) benefits and was given CDC paperwork. (Exhibit 1)

(5) On October 19, 2009, Claimant attended her Jobs, Employment and Training (JET) appointment. Claimant's JET worker told her that she believed that her job and circumstances met the requirements of JET and that a code regarding her income just needed to be changed for her to start receiving FIP benefits.

(6) On October 19, 2009, Claimant's JET caseworker was going to email her Department caseworker "to see if this 'income'" can be included as it has not been counted as income in the past. (Exhibit 5)

(7) Claimant's Department caseworker did not change the code because he considered Claimant's income to be "payment in kind" since it was being directly used to pay her rent. (Exhibit 9)

(8) On November 12, 2009, the Department sent Claimant a Notice of Case Action, DHS-1605, informing her that her FIP application was denied effective September 16, 2009 – ongoing because – "You or a group member(s) failed to attend Jobs, Education and Training

(JET) and to remain in compliance with JET activities before the opening of your cash assistance case.” (Exhibits 12-16)

(9) On December 18, 2009, Claimant’s Department caseworker changed. (Exhibit 20)

(10) In December 2009, Claimant’s new caseworker sent Claimant notice that her FAP benefits would decrease based on her income.

(11) A January 2010 phone interview was scheduled, but not held. Claimant was unable to reach her current or former Department caseworker and she received a letter in late January “stating that her benefits were being cut off”. (Exhibits 23-25)

(12) On January 15, 2010, Claimant’s MA-LIF case closed and on January 31, 2010, Claimant’s FAP case closed. (Exhibit 22)

(13) On February 9, 2010, the Department received Claimant’s hearing request in which Claimant requests a hearing “to review my case”. (Exhibits 23-25)

(14) On April 8, 2010, the Department submitted a Hearing Summary which states that FIP, FAP, MA and CDC were the programs impacted by the Department Action. (Exhibit 1)

CONCLUSIONS OF LAW

The Child Development and Care program is established by Titles IVA, IVE and XX of the Social Security Act, the Child Care and Development Block Grant of 1990, and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The program is implemented by Title 45 of the Code of Federal Regulations, Parts 98 and 99. The Department of Human Services (DHS or department) provides services to adults and children pursuant to MCL 400.14(1) and MAC R 400.5001-5015. Department policies are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM).

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. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM).

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department of Human Services (DHS or department) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105. Department 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

Clients must cooperate with the local office in determining initial and ongoing eligibility. This includes the completion of necessary forms. BAM 105, p. 5 Verification means documentation or other evidence to establish the accuracy of the client’s verbal or written

statements. BAM 130, p.1 Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level when it is required by policy, required as local office option or information regarding an eligibility factor is unclear, inconsistent, incomplete or contradictory. BAM 130, p.1 The Department uses documents, collateral contacts or home calls to verify information. BAM 130, p.1 A collateral contact is a direct contact with a person, organization or agency to verify information from the client. BAM 130, p. 2 When documentation is not available, or clarification is needed, collateral contact may be necessary. BAM 130, p. 2

Clients are allowed 10 calendar days (or other time limit specified in policy) to provide the verifications requested by the Department. BAM 130, p. 4 If the client cannot provide the verification despite a reasonable effort, the time limit should be extended no more than once. BAM 130, p. 4 A negative action notice should be sent when the client indicates a refusal to provide the verification or the time period provided has lapsed and the client has not made a reasonable effort to provide it. BAM 130, p.4

Clients are allowed a reasonable opportunity to resolve any discrepancy between statements and information obtained through another source. BAM 130, p. 6 Disagreements and misunderstandings should be resolved at the lowest possible level to avoid unnecessary hearings. BAM 600, p. 11

In the instant case, despite a number of attempts, the Department could not really provide any reliable testimony and/or documentation regarding Claimant's CDC application and/or the denial of the same. In fact, it appears that a denial notice might not have been sent out.

Claimant's FIP application was ultimately denied because Claimant did not attend JET. Her JET caseworker thought that she should be excused from JET based on her job/income, but

her DHS caseworker did not believe that Claimant had income since it went directly to pay for her rent. Claimant tried unsuccessfully to contact her Department caseworker in regard to all this. Claimant's new caseworker apparently then included her income in a FAP budget which resulted in a decrease in FAP benefits. Finally, while it is confusing at best, it appears that Claimant's FAP and MA closed at the end of January 2010 because Claimant failed to complete her Redetermination and/or phone interview. Claimant's credible testimony was that she could not reach either her new or former caseworker during this time period and, once she finally did, she was told that there was some sort of mix-up and she should request a hearing.

With the above 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 denying Claimant's CDC and FIP applications or terminating her FAP or MA benefits.

DECISION AND ORDER

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 denying Claimant's CDC and FIP applications or terminating her FAP or MA benefits.

Accordingly, the Department's CDC, FIP, FAP and MA eligibility determinations are REVERSED, it is SO ORDERED. The Department shall:

- (1) Process Claimant's FIP and CDC applications retroactive to the closure dates.
- (2) Process Claimant's FAP and MA Redetermination retroactive to the closure dates.
- (3) Make a consistent determination on the issue of Claimant's income in processing Claimant's applications and redeterminations.
- (4) Issue Claimant supplemental benefits she is entitled to, if any.
- (5) Notify Claimant in writing of the Department's revised determinations.

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

/s/

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

Date Signed: June 15, 2010

Date Mailed: June 16, 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.

SMB/vc

cc:

