

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: 2010-35182

Issue No: 1038

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

June 30, 2010

Barry County DHS

ADMINISTRATIVE LAW JUDGE: Jana A. Bachman

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, an in-person hearing was held on June 30, 2010. Claimant was represented by [REDACTED]

ISSUE

Whether the Department of Human Services (department) properly determined claimant was noncompliant with employment and/or self-sufficiency activities for the Family Independence Agency program (FIP).

FINDINGS OF FACT

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

(1) During March and April 2010, claimant was a recipient of FIP benefits. Claimant was a mandatory work-related activities participant.

(2) During March 2010, claimant was assigned to engage in job search activities 20 hours per week. Department Exhibit A, pgs 29-32.

(3) April 1, 2010, a triage was held due to client's absenteeism from her work-related activities requirements. Claimant agrees that she was noncompliant with requirements. The department determined there was no good cause. Department Exhibit A, pgs 34-35.

(4) The department and the claimant agreed claimant could avoid loss of benefits but not the sanction if she completed 40 hours of job search. Department Exhibit A, pg 34.

(5) Claimant completed part but not all required tasks to prevent loss of benefits. Department Exhibit A, pgs 11, 14-15, 18-19.

(6) April 14, 2010, the department sent claimant written notice that her FIP benefits would be sanctioned due to noncompliance with work-related activity requirements.

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 Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

Federal and state laws require that each work eligible individual (WEI) in the FIP group to participate in Jobs, Education, and Training (JET) program or other employment-related services unless temporarily deferred or engaged in activities that meet participation requirements. Bridges Eligibility Manual (BEM) 230A; MCL 400.57(f); Rehabilitation Act of 1973

(Section 504); Americans with Disabilities Act of 1990; Michigan Persons with Disabilities Civil Rights Act.

The department requires clients to participate in employment and self-sufficiency related activities and accept employment when offered. The focus is to assist clients in removing barriers so they can participate in activities that lead to self-sufficiency. There are consequences for a client who refuses to participate without good cause. The goal of the FIP penalty policy is to obtain client compliance with appropriate work and/or self-sufficiency assignments and to ensure that barriers to such compliance have been identified and removed. The goal is to bring the client into compliance. Depending on case situation, penalties include the following:

- Delay in eligibility at application.
- Ineligibility (denial or termination of FIP with no minimal penalty).
- Case closure for a minimum of 3 or 12 months.

Noncompliance of applicants, recipients, or member adds means doing any of the following without good cause:

- Family member refusing to:
 - Appear and participate in the JET program or other service provider activities.
 - Provide legitimate documentation of work participation.
 - Appear for scheduled appointment or meeting relating to assigned activities.
 - Participation in employment and/or self-sufficiency related activities.

This list is not exhaustive.

Good cause is a valid reason for noncompliance with employment and/or self-sufficiency related activities that are based on factors that are beyond control of the compliant person. A claim of good cause must be verified and documented for member adds and recipients.

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

- For the first occurrence on FIP case, close the FIP for not less 3 calendar months unless the client is excused from the noncompliance as noted in the first case of 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.

For a first noncompliance, if the noncompliance client meets or if a phone triage is held with the department manager and/or the JET case manager and a decision regarding noncompliance is no good cause, the department may offer claimant the opportunity to comply. If claimant accepts the offer to comply, agrees with the department's decision of noncompliance without good cause and completes the required components to be considered in compliance, claimant's noncompliance is excused but not erased. BEM 233A; MCL 400.57(g); 42 USG 607.

In this case, claimant did not comply with JET and/or self-sufficiency requirements. Claimant attended triage and agreed with the department's finding of noncompliance without good cause. Claimant agreed to complete 40 hours of job search activities in order to excuse but not erase claimant's first instance of noncompliance. Claimant did not meet the requirements set

forth at the triage and so was properly sanctioned. Finding of Fact 1-6; BEM 230A; BEM 233A. Accordingly, the department has met its burden of proof and its action must be upheld.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department of Human Services properly determined that claimant did not participate in employment and/or self-sufficiency related activities as required to qualify for Family Independence Agency program benefits.

Accordingly, the department's action is, hereby, UPHELD.

/s/ _____
Jana A. Bachman
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: September 23, 2010

Date Mailed: September 30, 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.

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JAB/db

cc:

