

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: 2010-38256
Issue No: 1038
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
July 8, 2010
Kent County DHS

ADMINISTRATIVE LAW JUDGE: Kevin Scully

HEARING DECISION

This matter is before the undersigned Administrative Law Judge by authority of MCL 400.9 and MCL 400.37. Claimant's request for a hearing was received on April 27, 2010. After due notice, a telephone hearing was held on Thursday, July 8, 2010.

ISSUE

Whether the Department of Human Services (Department) properly determined the Claimant's Family Independence Program (FIP) eligibility?

FINDINGS OF FACT

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

- (1) The Claimant received FIP benefits until May of 2010.
- (2) On November 17, 2009, the Department notified the Claimant that her deferral from the JET program would expire on December 31, 2009.

(3) On February 9, 2010, the Department assigned the Claimant to the JET program to begin on February 24, 2010.

(4) On February 23, 2010, the Department reassigned the Claimant to the JET program to begin on March 8, 2010.

(5) The Department rescheduled the Claimant's JET orientation to March 10, 2010.

(6) The Department conducted a triage meeting on March 22, 2010.

(7) The Claimant agreed that she was noncompliant with the JET program, and agreed to a compliance test scheduled to begin April 5, 2010.

(8) The Department rescheduled the compliance test for April 12, 2010.

(9) The Department received an application for Child Development and Care (CDC) on April 16, 2010.

(10) The Claimant did not report to the JET program for her compliance test from April 13, 2010, through April 20, 2010.

(11) The Department conducted a triage meeting on April 26, 2010.

(12) The Department notified the Claimant that it would terminate her FIP benefits as of June 1, 2010.

(13) The Department received the Claimant's request for a hearing on May 5, 2010, protesting the termination of her FIP benefits.

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), Reference Table Manual (RFT), 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. PEM 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. PEM 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. PEM 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. PEM 233A, p. 9

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. PEM 233A, p. 4, 5

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. PEM 233A, p. 9

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. PEM, Item 233A.

Noncompliance, without good cause, with employment requirements for FIP/RAP(SEE PEM 233A) may affect FAP if both programs were active on the date of the FIP noncompliance. PEM 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.

The Claimant was receiving FIP benefits when the Department notified her on November 17, 2009, that her deferral from the JET program would expire on December 31, 2009. On February 9, 2010, the Department assigned the Claimant to the JET program as a condition of receiving FIP benefits. The Department scheduled a JET orientation for February 24, 2010, but the Claimant did not participate. The Department reassigned the Claimant to the JET program to begin on March 8, 2010, and then rescheduled it to begin on March 10, 2010. The Claimant did not show up at the JET program as scheduled, and the

Department held a triage meeting on March 22, 2010. The Claimant agreed that she was noncompliant with the JET program, and agreed to a compliance test scheduled to begin on April 5, 2010, but was rescheduled for April 12, 2010. The Claimant reported to her compliance test on April 12, 2010, but did not attend the JET program from April 13, 2010, through April 20, 2010. The Department held a triage meeting on April 26, 2010. The Department did not find good cause for the Claimant's noncompliance with the JET program, and terminated her benefits as of June 1, 2010.

The Claimant argued that she did have good cause for failing to attend the JET program compliance test after April 12, 2010. The Claimant also argued that she had good cause for failing to attend the triage meeting on April 26, 2010.

The Claimant argued that her son is disabled and that she could not locate appropriate childcare. The Claimant testified that it was necessary for her to care for her son, which prevented her from attending the JET program and the triage meeting.

The Department testified that the Claimant did not notify it that her son was disabled, and did not provide verification of his disability. Good cause for a disabled child must be verified by documentation from a medical service provider. BEM 230A.

The Claimant applied for Child Development and Care (CDC) benefits on April 16, 2010, but chose not to place her son in daycare under this program because she felt that it was not appropriate for his needs.

The Claimant argued a lack of transportation prevented her from attending the JET program after April 12, 2010.

The Department testified that it provided the Claimant with a bus pass to assist her with her transportation difficulties. The Claimant denied receiving the bus pass. The Department

testified that it mailed a bus pass to the Claimant at the address she provided. The proper mailing and addressing of a letter creates a presumption of receipt. That presumption may be rebutted by evidence. *Stacey v Sankovich*, 19 Mich App 638 (1969); *Good v Detroit Automobile Inter-Insurance Exchange*, 67 Mich App 270 (1976). In this case, the Claimant failed to rebut the presumption of receipt.

The Department's determination that the Claimant did not have good cause for her noncompliance with the JET program is reasonable. Based on the evidence and testimony presented at the hearing the Department established that it acted in accordance with policy when it terminated the Claimant's FIP benefits.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department acted in accordance with policy in determining the Claimant's FIP eligibility.

The Department's FIP eligibility determination is **AFFIRMED**. It is **SO ORDERED**.

/s/ _____
Kevin Scully
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: July 21, 2010

Date Mailed: July 22, 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 60 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 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.

KS/vc

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