

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: 2010-12874
Issue No: 1005
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
April 27, 2010
Monroe County DHS

ADMINISTRATIVE LAW JUDGE: Suzanne L. Keegstra

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 held on April 27, 2010. The claimant personally appeared and provided testimony. The record was left open until May 11, 2010 to allow additional information to be submitted.

ISSUE

Did the department properly determine the claimant's Family Independence Program (FIP) application should be denied for Work First/Jobs, Education and Training (WF/JET) program noncompliance in October, 2009?

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 applied for FIP benefits August 28, 2009.

2. On September 14, 2009, the claimant attended WF/JET orientation. (Department Exhibit 1)

3. The claimant had no participation for the week of September 13 and September 20, 2009. (Department Exhibit 1)

4. On September 21, 2009, the claimant called WF/JET and indicated that she had injured herself and was unable to participate with WF/JET. The WF/JET worker informed her to talk to her DHS worker about a deferral and also emailed the DHS worker informing her of the situation. (Department Exhibit 1, 17)

5. On September 21, 2009, the department mailed the claimant a Medical Needs form (DHS-54) and a Medical Examination Report (DHS-49) for her to have completed by a physician. (Department Exhibit 6 – 11)

6. On September 22, 2009, the claimant faxed the department documents from Mercy Hospital that showed the claimant was treated in the emergency room on September 19 for a sprained foot and on September 21, 2009, for a knee sprain. (Department Exhibit 12 – 16)

7. The claimant did not submit the requested medical forms to the department, so on October 29, 2009, the department mailed the claimant a Notice of Case Action (DHS-1605) that indicated her FIP application was being denied because she didn't submit the necessary medical documentation. (Department Exhibit 2 – 4)

8. The claimant submitted a hearing request on November 6, 2009.

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).

Department policy states:

DEPARTMENT PHILOSOPHY

FIP

DHS requires clients to participate in employment and self-sufficiency-related activities and to accept employment when offered. Our focus is to assist clients in removing barriers so they can participate in activities which lead to self-sufficiency. However, 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-related assignments and to ensure that barriers to such compliance have been identified and removed. The goal is to bring the client into compliance.

Noncompliance may be an indicator of possible disabilities. Consider further exploration of any barriers.

DEPARTMENT POLICY

FIP

A Work Eligible Individual (WEI), see BEM 228, who fails, without good cause, to participate in employment or self-sufficiency-related activities, must be penalized.

See BEM 233B for the Food Assistance Program (FAP) policy when the FIP penalty is closure. For the Refugee Assistance Program (RAP) penalty policy, see BEM 233C. BEM 233A, p. 1.

NONCOMPLIANCE WITH EMPLOYMENT AND/OR SELF-SUFFICIENCY-RELATED ACTIVITIES

As a condition of eligibility, all WEIs and non-WEIs must work or engage in employment and/or self-sufficiency-related activities. 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) or PRPFC.
 - .. Appear for a scheduled appointment or meeting related to assigned activities.
 - .. Provide legitimate documentation of work participation.
 - .. 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.

Failure by a client to participate fully in assigned activities while the FIP application is pending will result in denial of FIP benefits, if upon the day of case processing the client is in noncompliance with JET. Use ASSIST denial code 463 and CIMS denial code 210 for clients denied FIP benefits for noncompliance while the application is pending. Retain a copy of the appointment notice in the case record. Do not penalize Food Assistance when a client fails to attend JET as a condition of eligibility when the noncompliant person is not active FIP on the date of the noncompliance. Clients must be active FIP to apply a FIP penalty to the FAP case.

Noncompliance is defined by department policy as failing or refusing to do a number of activities, such as attending and participating with WF/JET, completing the FAST survey, completing job applications, participating in employment or self-sufficiency-related activities, providing legitimate documentation of work participation, etc. BEM 233A. In this case, the claimant does not dispute that she was noncompliant with WF/JET program requirements. The claimant admits that she did not attend WF/JET after she injured her leg.

The claimant indicates that she believes she had good cause for her noncompliance. Good cause is defined as 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. BEM 233A.

The claimant indicates that she injured her knee and was unable to participate with WF/JET. The claimant testified that the hospital faxed medical documentation to the department. The department does have documentation faxed on September 22, 2009 from [REDACTED]. However, these documents only state that the claimant was seen in the emergency room for a sprained foot on September 19, 2009 and for a sprained knee on

September 21, 2009. There is no indication that the claimant has to be off work for any period of time.

In order for the department to grant any temporary deferral, the claimant must present medical documentation. On September 21, 2009, the claimant was mailed a Medical Needs form and a Medical Examination Report to have her physician complete and return. The department never received these forms to evaluate the claimant for a WF/JET deferral. The claimant testified that she never received the forms. The department produced the correspondence history from the Bridges computer system that shows the forms were mailed to the claimant on September 21, 2009. The claimant received the Notice of Case Action that was mailed to the same address, so it is not clear why the claimant would not have received the medical forms to be completed.

The only documentation the department has showing the claimant is to be off work was submitted by the claimant with her hearing request on November 6, 2009. This was after the case was denied and the Notice of Case Action was mailed. It is also noted that this slip indicates the initial disability date is October 1, 2009.

Thus, while the claimant may have had a valid reason to be deferred, it does not appear that the department was provided with the proper documentation to actually be able to defer the claimant. The claimant did not return the necessary forms the department mailed to her for her physician to complete. Further, the documentation the claimant did timely submit, does not show the claimant to be excused from WF/JET participation.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department properly denied the claimant's FIP application for

noncompliance with WF/JET program requirements and failure to provide documentation for a deferral.

Accordingly, the department's actions are UPHeld. SO ORDERED.

/s/ _____
Suzanne L. Keegstra
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: June 2, 2010

Date Mailed: June 4, 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.

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