

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: 2010-1401
Issue No: 2000, 3000, 1038
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
November 4, 2009
Lapeer County DHS

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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 November 4, 2009. Claimant appeared and testified. [REDACTED], claimant's husband, was also present and testified. Brenda Plumb, JET Worker, appeared on behalf of the department.

ISSUES

1. Did the Department of Human Services (department) properly decrease the Food Assistance Program (FAP) group size?
2. Did the Department properly close claimant's Medical Assistance (MA) benefits when the children were removed from the home?
3. Did the Department properly close the Family Independence Program (FIP) benefits for noncompliance with work-related activities?

FINDINGS OF FACT

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

(1) Claimant's household received ongoing FAP and MA benefits for claimant, her husband, and four children.

(2) On July 13, 2009, claimant applied for FIP benefits.

(3) As part of the FIP program, claimant and her husband were referred to Michigan Works for the required participation in work related activities.

(4) Claimant and her husband did not meet the required participation hours with Michigan Works from August 9-22, 2009.

(5) Claimant testified that working with Children's Protective Services prevented them from meeting the required participation hours because both claimant and her husband had to attend related legal proceedings, participate in drug testing, and attend a rehabilitation program.

(6) On August 18, 2009, the children were removed from claimant's home.

(7) On August 26, 2009, the department denied the FIP application for failure to meet the required participation hours with Michigan Works.

(8) The department also removed the children from the FAP group resulting in decreased FAP benefits effective October 2009 and closed the MA benefits due to the children being removed from the home.

(9) Claimant filed a hearing request on September 24, 2009 to contest the FAP, MA, and FIP determinations.

(10) At the hearing, claimant testified she now understood the FAP and MA determinations and did not have any objections.

CONCLUSIONS OF LAW

FAP and MA

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 Program Reference Manuals.

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 Program Reference Manuals.

The regulations governing hearing and appeals for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code. MAC R 400.901-.951. MAC R 400.903 reads in part: An opportunity for a hearing shall be granted to an applicant who requests a hearing because his claim for assistance is denied or is not acted upon with reasonable promptness, and to any recipient who is aggrieved by a department action resulting in suspension, reduction, discontinuance, or termination of assistance.

In the present case, claimant filed a request, in part regarding the removal of the children from the FAP group resulting in decreased FAP benefits and closure of the MA benefits based

upon the children being removed from the home by Children's Protective Services (CPS). However, at the hearing, the claimant testified she now understood the FAP and MA actions taken by the department. Further, the department testified the MA benefits are currently being re-opened as claimant is compliant with a plan for re-unification. Accordingly, claimant indicated she was no longer aggrieved by the department's FAP and MA determinations. The FAP and MA issues raised in claimants hearing request has been resolved.

Therefore, this hearing is dismissed as to the FAP and MA issues pursuant to MAC R 400.903(1). PAM 600.

FIP

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 Program Reference Manuals.

The Family Independence Program (FIP) provides temporary cash assistance to support a family's movement to self-sufficiency. The recipients of FIP engage in employment and self-sufficiency-related activities so they can become self-supporting. Federal and State laws require each work eligible individual (WEI) in the FIP 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. BEM 230A.

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. BEM 230 A. A mandatory participant in the JET program who fails without good cause to participate in employment activity must be penalized. BEM Manual Item 233(a). The penalty for the first occurrence of noncompliance in the JET program is a closure for a minimum of three calendar months under the FIP program. BEM Manual Item 233(a). If a customer is found in noncompliance with FIP when they are also a recipient of FAP, their FAP case will also be penalized for a minimum of three months under the JET program. BEM Manual Item 233(b); 42 USC 607. Good cause is a valid reason for noncompliance with employment related activities. A claim of good cause must be verified and documented for applicants, members, and recipients. BEM Manual Item 230(a), BEM Manual Item 230(b); 7 CFR Parts 272 and 273.

In the present case, claimant applied for FIP benefits on July 13, 2009. Claimant and her husband were referred to Michigan Works for the required JET participation and attended orientation on July 15, 2009. (Exhibit 1, pg. 1) Between claimant and her husband, they were required to complete 40 hours a week of work related activities. On July 27, 2009 a note was entered indicating claimant reported to Michigan Works and submitted a log for the week of July 19-25, 2009. The log showed claimant and her husband completed 39 of the 40 hours required for the week and was accepted. (Exhibit 1, pg. 1) On August 5, 2009 and August 12, 2009, notes were entered indicating claimant reported to Michigan Works and submitted a logs for the weeks of July 26 to August 1, 2009 and August 2-8, 2009 respectively. The logs for each week showed claimant and her husband completed over 40 hours of work related activities and were accepted. (Exhibit 1, pg. 1)

However, a note entered on August 18, 2009 indicated claimant did not report and submit a log for the week of August 9-15, 2009. When Michigan Works called, claimant indicated she was at a doctor and requested a call back. Michigan Works called back the next day and left a for claimant voicemail, however the voicemail greeting was someone else's name. Claimant never reported and no hours were entered for the week. (Exhibit 1, pg. 1) A note entered August 26, 2009 indicated claimant did not call or report to submit any hours for the week of August 16-22, 2009 either. (Exhibit 1, pg. 1)

Accordingly, the noncompliance at issue is for the time period of August 9, 2009 to August 22, 2009, for which claimant did not report to Michigan Works or submit any logs of required participation hours. Claimant testified that the only reason she and her husband were unable to complete all required hours and report to submit the logs was due to their ongoing case with CPS. It is noted that the children were removed from the home during the non-compliance time period, on August 18, 2009, with a plan for reunification. (Exhibit 1, pg. 10) Claimant testified that because of CPS, she and her husband had to attend legal proceedings, participate in drug testing, and attend a rehabilitation program.

Claimant testified she and her husband went into the residential rehabilitation program a day apart. Claimant attended rehabilitation from August 28, 2009 through September 11, 2009. (Exhibit 2, pg. 6) The documentation submitted does not show the date claimant's husband entered the residential treatment program, but it does show he absconded on August 30, 2009. (Exhibit 2, pg. 7) The rehabilitation attendance occurred after the period of noncompliance at issue. Therefore, attending the rehabilitation program did not interfere with completing the required participation hours during the time period of August 9-22, 2009.

After the hearing, claimant submitted additional logs for the week August 9-15, 2009 showing she and her husband completed 21 hours of job search and readiness activities as well as

4 hours each of home services. (Exhibit 2, pgs. 3-5) However, the department's coversheet for faxing these documents indicates that these logs were altered after the hearing. Claimant had the documents with her at the hearing and the department reviewed them that day. The department gave the documents back to claimant at the hearing to have the home services worker sign one of the forms. When the claimant gave them back to the department to fax to this ALJ, the department notes an additional page, log for claimant's husband, was added and that some of the other pages were altered. (Exhibit 2, pg. 1) However, even as submitted, the logs only show 29 of the 40 hours were completed for the week of August 9-15, 2009. No evidence was submitted showing any hours were completed the week of August 16-22, 2009.

Based upon the foregoing facts and relevant law, it is found that claimant did not have good cause for the noncompliance with work related activities from August 9-22, 2009. The CPS required rehabilitation program occurred after the non-compliance period. The department questions the validity of the logs claimant submitted after the hearing. However, even if credit was given for all hours on these logs as submitted, claimant and her husband were short 10 hours of required participation the week of August 9-15, 2009. This ALJ does consider that the CPS proceedings would have taken up some time each week. However, claimant and her husband did not participate in any work-related activities the week of August 16-22, 2009.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that claimant did not have good cause for the noncompliance with work-related activities from August 9-22, 2009.

Accordingly, the department's determination is AFFIRMED.

/s/ _____
Colleen Lack
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: November 13, 2009

Date Mailed: November 14, 2009

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 mailing date of the rehearing decision.

CL/cv

cc:

