

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: 2010-1443

Issue No: 1038, 2006

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

November 4, 2009

Muskegon 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 was present and testified. [REDACTED], claimant's husband, was also present and testified. Brenda Hodson, FIM, Tamia McGlothlin, FIS, and Patrese Watson, JET Case Manager, appeared on behalf of the department.

ISSUE

Did the Department of Human Services (department) properly close claimant's Family Independence Program (FIP) and Medical Assistance (MA) 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 was an ongoing recipient of FIP and MA benefits in a household of seven persons.

2) Claimant's husband was participating in Work First through the Muskegon Heights Service Center to meet the work-related activities program requirements.

3) Claimant's husband was found to be noncompliant with Work First on July 7, 2009 because no job search logs were submitted for the month of June 2009.

(Department Exhibit 1, pg. 4)

4) On July 16, 2009, a triage meeting was held to discuss the noncompliance during which claimant's husband indicated he had been too ill to participate in the work related activities.

5) On July 16, 2009, the department issued a Verification Checklist for claimant's husband to provide proof from his doctor that he was unable to participate in Work First with a due date of July 23, 2009. (Department Exhibit 2, pg. 3)

6) On July 24, 2009, claimant's physician's office faxed a letter to the department indicating claimant was unable to participate in Work First for 40 hours a week. (Department Exhibit 2, pg. 4)

7) On July 31, 2009, the department determined there was no good cause for the noncompliance because the doctor's statement did not specifically address the month of June 2009. Therefore, the department issued notice that the FIP and MA benefits would close effective August 12, 2009. (Department Exhibit 1, pg 3 and Hearing Summary)

8) Claimant filed a hearing request to contest the MA and FIP determination on August 18, 2009.

CONCLUSIONS OF LAW

MA

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.

Low-Income Family MA (LIF) is a Medicaid category available to Family Independence Program (FIP) recipients starting the first day of the first month for which a FIP payment is made. BEM 110. However, termination of FIP benefits does not necessarily terminate MA benefits. Families no longer eligible for FIP might continue eligible for MA only under LIF.

When FIP benefits are terminated, the department is to consider if the family meets the nonfinancial and financial eligibility requirements LIF as a FIP Ineligibles first, then consider other MA categories. The department must determine if MA eligibility exists under any other category before terminating MA for LIF or FIP recipients. BEM 110.

In the present case, the department testified that the MA coverage at issue was under the LIF category. The department testified that the LIF MA terminated when the FIP benefits ended due to non-compliance with work related activities as required for that program. However, it was not clear from the department's testimony if they considered whether the family could still qualify for LIF MA as FIP ineligibles or if MA eligibility existed under another category.

Additionally, if the department's determination to close the FIP benefits was not correct, then the LIF MA closure was also incorrect. Claimant's LIF MA eligibility would have continued if the FIP eligibility continued.

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 or second 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). 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's husband was found to be noncompliant with work related activities because he failed to submit job search logs for the month of June 2009. (Department Exhibit 1 pg. 4) At the July 16, 2009 triage meeting, claimant's husband indicated he had been too ill to meet the participation requirements. He did not have documentation with him to verify his medical conditions, so the department issued a verification checklist giving him one week to submit proof from his doctor. (Department Exhibit 1 pg. 3 and Department Exhibit 2 pg. 3)

Under PAM 130, the department is required to give at least ten days for a claimant to provide verifications. The Verification Checklist was due on July 23, 2009, only one week after it was issued. However, the department did accept the letter faxed by the physician's office on July 24, 2009.

The physician's letter was written on July 23, 2009 and indicated claimant's husband was being seen for ongoing medical problems, that he had been struggling with increased pain and worsening symptoms which made it impossible for him to attend and participate in Work First for 40 hours a week. The letter indicated treatment was beginning for some conditions and being increased for others. The doctor therefore indicated claimant's husband would not be able to participate for a full 40 hours a week for at least the next three months while his medications were being adjusted. (Department Exhibit 1, pg. 2) The department did not find good cause for the noncompliance because this letter did not specifically address claimant's husband's condition and abilities in June 2009, the time period at issue. (Department Exhibit 1, pg. 3)

At the hearing, claimant and her husband submitted an additional letter from the physician to clarify the time period he was unable to participate in Work First. This August 20,

2009 letter indicates, “claimant is excused for participation in Work First from June 2009 through November 1, 2009 while we are adjusting his medications and addressing the severe depression.” (Department Exhibit 2, pg. 4) This additional evidence does specifically address the time period at issue for the noncompliance and indicates claimant’s husband was not able to meet the participation requirements.

At the hearing, the department also indicated there had also been issues with claimant’s husband’s compliance with Work First in months prior to June 2009. However, upon review of the case notes, it appears the July 16, 2009 triage meeting was requested specifically due to the lack of job search logs for June 2009 and it is not clear that claimant or her husband were ever given notice that noncompliance in prior months was at issue and therefore he would need to provide documentation of good cause for those months as well as June 2009. The July 16, 2009 case note indicates he was only instructed to provide a doctor’s statement regarding his current medical condition. (Department Exhibit 1, pgs. 3-4) Such a statement was relevant to the June 2009 noncompliance issue. Accordingly, this ALJ cannot consider noncompliance in months prior to June 2009 as it does not appear this issue was addressed at the July 16, 2009 triage meeting or that claimant was ever given notice that noncompliance in prior months was at issue.

Based upon the foregoing facts and relevant law, it is found that claimant’s husband had good cause for the noncompliance with Work First in June 2009. The treating physician has provided additional documentation clarifying the time period claimant’s husband was unable to participate in Work First. Accordingly, the department shall re-instate the MA and FIP benefits retroactive to the August 12, 2009 closure.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that claimant's husband had good cause for the noncompliance with Work First as documented by his physician's statements that he was too ill to participate in June 2009.

Accordingly, the department's MA and FIP determinations are REVERSED. Therefore, it is ORDERED that department re-instate the MA and FIP benefits, retroactive to the August 12, 2009 closure, awarding benefits to claimant, if appropriate, in accordance with this decision.

Colleen Lack

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

Date Signed: November 30, 2009

Date Mailed: November 30, 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:

[REDACTED]