

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: 2010-1867

Issue No: 1038

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

November 10, 2009

Calhoun 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 10, 2009. Claimant was present and testified. Christi Weakley, FIS case manager, Lena Thunder, JET coordinator, and Destiny Kulikowski, JET case manager, appeared on behalf of the department.

ISSUE

Did the Department of Human Services (department) properly close the Family Independence Program (FIP) benefits for non-compliance 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 benefits.
- (2) Claimant was required to participate in 20 hours of work-related activities a week through the JET program. (Department Exhibit 1, pg. 9)

(3) Claimant provided a doctor's excuse to the JET program for the timeframe of June 18, 2009 to June 22, 2009. (Department Exhibit 1, pg. 18)

(4) Claimant's actual hours of participation were 2 hours the week of June 21, 2009, 18 hours the week of June 28, 2009 (including a 4 hour credit for Independence Day), 2 hours the week of July 5, 2009, no hours the week of July 12, 2009, no hours the week of July 19, 2009, 2 hours the week of July 26, 2009 and no hours the week of August 2, 2009. (Department Exhibit 1, pg. 9)

(5) On August 7, 2009, claimant's case was assigned to triage due to excessive absences and lack of job search. (Department Exhibit 1, pg. 2)

(6) On August 26, 2009, a triage meeting was held to discuss the noncompliance and claimant indicated she had been too ill to participate and would be having surgery in October 2009. (Department Exhibit 1, pg. 6)

(7) Claimant was given until August 28, 2009 to provide documentation of the medical condition to support her claim of good cause for the noncompliance. (Department Exhibit 1, pg. 6)

(8) On September 2, 2009, the department closed the FIP case finding no good cause for the noncompliance was established as no additional documentation was received.

(9) Claimant filed a hearing request to contest the FIP determination on September 24, 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 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 was an ongoing recipient of FIP benefits who was required to participate in work-related activities for 20 hours a week through the JET program. Claimant had provided a doctors excuse for the time frame of June 18-22, 2009. (Department Exhibit 1, pg. 18) However, claimant only participated for 2 hours the week of June 21, 2009, 18 hours the week of June 28, 2009 (including a 4 hour credit for Independence day), 2 hours the week of July 5, 2009, no hours the week of July 12, 2009, no hours the week of July 19, 2009, 2 hours the week of July 26, 2009 and no hours the week of August 2, 2009. (Department Exhibit 1 pg. 9)

At the August 26, 2009 triage meeting, claimant was given 2 additional days to provide documentation of her medical condition to support the claim of good cause. (Department Exhibit 1, pg. 6) Claimant testified she contacted her doctor's office for the documentation and they indicated they would fax the information to the department. The department never received any additional documentation. Therefore, the department closed the FIP case on September 2, 2009.

The record was left open following the November 10, 2009 hearing to allow claimant additional time to provide a doctor's statement or other treatment records indicating she was unable to work or participate in the JET program from June 22, 2009 to August 8, 2009. Claimant was to provide these records to the department or to this ALJ by November 25, 2009. (Interim Order) On November 23, 2009, claimant mailed additional medical records to this ALJ's office. These records show ongoing treatment for depression as well as dysfunctional uterine bleeding from June 2009 through the October 2009 endometrial ablation surgery. (Claimant Exhibit A)

Based upon the foregoing facts and relevant law, it is found that claimant had good cause for not meeting the participation requirements. Claimant was receiving ongoing treatment for depression and dysfunctional uterine bleeding, ultimately having surgery in October 2009. Therefore claimant's FIP case shall be reinstated retroactive to the September 2, 2009 closure.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that claimant had good cause for failing to meet the JET participation requirements.

Accordingly, the department's FIP determination is REVERSED. Therefore, it is ORDERED that claimant's FIP case be re-instated retroactive to the September 2, 2009 closure, and claimant be awarded benefits if appropriate, in accordance with this decision.

Colleen Lack

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

Date Signed: December 7, 2009

Date Mailed: December 7, 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:

A large black rectangular redaction box covers the names of the recipients listed in the 'cc:' field.