

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: 2010-25733

Issue No: 1038

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

July 22, 2010

Washtenaw County DHS

ADMINISTRATIVE LAW JUDGE: Jana A. Bachman

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, an in-person hearing was held on July 22, 2010. Claimant was represented by [REDACTED]

ISSUE

Whether the Department of Human Services (department) properly determined that claimant did not participate in work-related activities as required for the Family Independence Program (FIP).

FINDINGS OF FACT

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

(1) During May through July 2009, claimant was a recipient of FIP benefits.

(2) On or about May 2009, the [REDACTED] service site determined claimant had not turned in all her timesheets. Claimant also did not pick up Support Services funds as granted her. Department Exhibit A, pgs 1-2.

(3) June 17, 2009, written notice was sent to schedule a triage due to noncompliance. Department Exhibit A, pg 1.

(4) June 30, 2009, claimant did not appear for her triage. She requested that it be rescheduled for July 1. A triage was then held on that day by telephone. No determination of good cause was made as claimant needed to supply medical documentation.

(5) July 9, 2009, claimant did not supply medical documentation and case was scheduled for termination.

(6) On or about July 14, 2009, claimant's FIP assistance was closed due to sanction for failure to participate as required in work-related activities. Department Exhibit A, pg 1.

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 Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

The Family Independence Program (FIP) is a temporary cash assistance program 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 laws require each work eligible individual in the FIP group to participate in Jobs, Education, and Training (JET) program or other employment service unless temporarily deferred or engaged in activities that meet participation requirements. These clients must participate in employment and/or self-sufficiency activities to increase their employability and obtain employment.

The department is to be alert to undisclosed or unrecognized disabilities and offer screening and assessment as appropriate. Help clients understand that the department can only offer accommodations if a disability is verified. Clients are screened for disabilities on the DHS-619, Jobs and Self-Sufficiency Survey and the FAST, which asks questions about medical problems, special education, and symptoms of mental illness.

Inform clients requesting accommodation or deferral that they may be required to attend appointments with [REDACTED] doctors, psychologists, or others to ensure that appropriate accommodations or deferrals are made. Explain that assessment is voluntary but failure to cooperate with assessment may prevent the department from providing a deferral for accommodation.

Persons with a mental or physical illness, limitation, or incapacity expected to last more than 90 days and preventing their participation in employment related activities may be deferred for more than 90 days. Clients in this category may be referred to [REDACTED] [REDACTED]) or the [REDACTED] for consultation and may be eligible for ongoing services from those agencies.

When a client states they are disabled or indicates that they may be unable to participate in work or JET because of a mental or physical condition, injury, illness, impairment, or problem at intake, redetermination, or any time during an ongoing benefit period, required the client to provide verification from their doctor (DHS-49), Medical Examination Report or DHS-54A, (Medical Needs) may be used. Bridges Eligibility Manual (BAM) 230A; MCL 400.57(f); Rehabilitation Act of 1973 (Section 504); Americans with Disabilities Act of 19980; Michigan Persons with Disabilities Civil Rights Act.

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.

Good cause includes the following: the client is physically or mentally unfit for the job or activity as shown by medical evidence or other reliable information. This includes any disability related limitations that preclude participation in a work and/or self-sufficiency related activity. The disability related needs or limitations may not have been identified or assessed prior to the noncompliance.

JET participants will not be terminated from a JET program without first scheduling a triage meeting with a client to jointly discuss noncompliance and good cause.

Determine good cause 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 ██████ 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. BEM 233A; MCL 400.57(g); 42 USC 607.

In this case, claimant was a mandatory participant in work related activities. During May 2009, claimant failed to provide all required documentation for Job Search. Claimant also failed to pick up support funds granted to her to obtain a driver's license and GED fee. At triage in July 2009, claimant reported that she had a diagnosis of bipolar disorder. Claimant was requested to bring in proof before the negative action date. Finding of Fact 1-6.

At hearing, no evidence was presented to establish that the department had been alert to undisclosed or unrecognized disabilities prior to the sanction. No evidence was presented to indicate that the department had offered screening and assessment as appropriate. Department Exhibit A, Claimant Exhibit A. Bipolar disorder is a serious medical condition that frequently affects a person's ability to comply with activities of daily living, particularly when the person with bipolar disorder is not taking medication as was the case with claimant. The June 29, 2009 psychiatric evaluation is incomplete and does not contain sufficient information to determine whether claimant is capable of engaging in work related activities. Claimant Exhibit A, pgs 2-5. Accordingly, the department has not met its burden of proof and its action to sanction claimant cannot be upheld.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department did not properly determine that claimant failed to participate in work related activities as required for the Family Independence Program.

Accordingly, the department's action is, hereby, REVERSED. The department is to initiate a determination of claimant's current ability to participate in work related activities, including obtaining current psychiatric treatment records. If treatment records are not available, the department is to schedule an independent psychiatric evaluation to be paid for by the

department according to department fee schedules and policies and this Decision and Order.

Department is to initiate an evaluation of claimant's proper FIP benefit amounts for the months during which she was sanctioned in accordance with department policy and this Decision and Order.

/s/ _____
Jana A. Bachman
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: August 20, 2010

Date Mailed: August 26, 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 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.

JAB/db

cc:

[Redacted]