

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.: 201027035

Issue No.: 1005

Case No.: [REDACTED]

Load No.: [REDACTED]

Hearing Date:

May 20, 2010

Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Aaron McClintic

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the Claimant's request for a hearing. After due notice, a telephone hearing was held on May 20, 2010. The Claimant appeared and testified. [REDACTED], FIM and [REDACTED], JET Case Manager appeared on behalf of the Department.

ISSUE

Did the Department properly close Claimant's Family Independence Program ("FIP") benefits case for non-compliance with the Work First/Jobs Education and Training ("JET") program?

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 a recipient of FIP benefits who was assigned to JET.

2. On November 5, 2009 a DHS-49 Medical Examination Report was given to Claimant.
3. Claimant's treating physician [REDACTED] completed the form on November 9, 2009. On this form [REDACTED] states under physical limitations "No limitations but mentally disabled with bipolar disorder."
4. On December 17, 2009 Notice of Noncompliance was sent to Claimant and a triage meeting appointment notice for January 5, 2010 was given to Claimant.
5. On January 5, 2010 a triage meeting was held and the Department determined that Claimant was noncompliant and did not have good cause for noncompliance.
6. On January 19, 2010 Claimant's FIP case closed and a 90 day sanction was imposed.
7. On February 6, 2010 in a non-emergency psychiatric evaluation a Psychiatrist with [REDACTED] gave Claimant a Global Assessment of Functioning score of 40.
8. A Psychiatric/ Psychological Examination Report and a Mental Residual Capacity Assessment were completed by [REDACTED], Claimant's treating Psychiatrist, on May 17, 2010.
9. Claimant requested a hearing on March 11, 2010 contesting the closure and sanction of FIP benefits.

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 Dependant 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 manual (PRM).

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 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 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 has substantial and significant ongoing mental health problems. Her general practice treating physician [REDACTED] stated in November 2009 in a Medical Examination Report that Claimant was "mentally disabled with bipolar disorder". On


February 6, 2010, a Psychiatrist with [REDACTED] gave Claimant a Global Assessment of Functioning score of 40. The DSM IV describes a score of 40 as follows: Some impairment in reality testing or communication (e.g., speech is at times illogical, obscure, or irrelevant) OR major impairment in several areas, such as work or school, family relations, judgment, thinking, or mood (e.g., depressed man avoids friends, neglects family, and is unable to work; child frequently beats up younger children, is defiant at home, and is failing at school). This was the evaluation that was closest in time to the period in question.

On May 18, 2010 [REDACTED] gave Claimant a Global Assessment of Functioning score of 48 with a score of 40 within the last year.

Claimant has good cause for failing to participate with Work First due to her mental health problems. Claimant has a consistent diagnosis of bi polar disorder with substantial impairments that prevent her from participating with Work First. Accordingly, the Department's closure of FIP benefits and implementation of a 90 day sanction was improper and incorrect.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law decides that the Department was incorrect in the closure of FIP benefits and in imposing a 90 day sanction, and it is ORDERED that the Department's decision in this regard be and is hereby REVERSED. Claimant's FIP benefits shall be reinstated as of the date of closure and the negative action shall be deleted.

/s/  _____
Aaron McClintic
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

201027035/AM

Date Signed: June 9, 2010

Date Mailed: June 9, 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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