

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: 2010-30658

Issue No: 1038

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

June 2, 2010

Washtenaw County DHS

ADMINISTRATIVE LAW JUDGE: Kevin Scully

HEARING DECISION

This matter is before the undersigned Administrative Law Judge by authority of MCL 400.9 and MCL 400.37. Claimant's request for a hearing was received on 3/19/2010. After due notice, a telephone hearing was held on Wednesday, June 2, 2010.

ISSUES

Whether the Department of Human Services (Department) properly determined the Claimant's Family Independence Program (FIP) eligibility?

FINDINGS OF FACT

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

- (1) The Claimant was receiving FIP benefits. Claimant Exhibit 5.
- (2) On February 27, 2010, the Department scheduled a redetermination meeting for March 5, 2010. Claimant Exhibit 3.

(3) On February 27, 2010, the Department scheduled the Claimant for Jobs, Education, and Training (JET) programming at Michigan Works for March 8, 2010.

Claimant Exhibit 4.

(4) On March 19, 2010, the Department scheduled a triage meeting for 1:00 p.m. on March 25, 2010. Department Exhibit 2.

(5) The Claimant had an appointment at the Washtenaw County [REDACTED] Department from 12:45 to 4:30 p.m. on March 25, 2010. Claimant Exhibit 10.

(6) On March 27, 2010, the Department terminated the Claimant's FIP benefits.

(7) The Department received the Claimant's request for a hearing on March 29, 2010, protesting the denial of CDC benefits and termination 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 Dependent Children (ADC) program effective October 1, 1996. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), Reference Table Manual (RFT), and the Bridges Reference Manual (BRM).

Department policy states that clients must be made aware that public assistance is limited to 48 months to meet their family's needs and that they must take personal responsibility to achieve self-sufficiency. This message, along with information on ways to achieve independence, direct support services, non-compliance penalties, and good cause reasons, is

initially shared by DHS when the client applies for cash assistance. Jobs, Education and Training (JET) program requirements, education and training opportunities, and assessments will be covered by the JET case manager when a mandatory JET participant is referred at application. PEM 229, p. 1.

Federal and State laws require each work eligible individual (WEI) in the FIP and RAP 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. 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. A WEI who refuses, without good cause, to participate in assigned employment and/or self-sufficiency-related activities is subject to penalties. PEM 230A, p. 1.

Noncompliance of applicants, recipients, or member adds means doing any of the following without good cause:

- . Failing or refusing to:
 - .. Appear and participate with the Jobs, Education and Training (JET) Program or other employment service provider.
 - .. Complete a Family Automated Screening Tool (FAST), as assigned as the first step in the FSSP process.

- .. Develop a Family Self-Sufficiency Plan (FSSP) or a Personal Responsibility Plan and Family Contract (PRPFC).
- .. Comply with activities assigned to on the Family Self-Sufficiency Plan (FSSP).
- .. Provide legitimate documentation of work participation.
- .. Appear for a scheduled appointment or meeting related to assigned activities.
- .. Participate in employment and/or self-sufficiency-related activities.
- .. Accept a job referral.
- .. Complete a job application.
- .. Appear for a job interview (see the exception below).
- . Stating orally or in writing a definite intent not to comply with program requirements.
- . Threatening, physically abusing or otherwise behaving disruptively toward anyone conducting or participating in an employment and/or self-sufficiency-related activity.
- . Refusing employment support services if the refusal prevents participation in an employment and/or self-sufficiency-related activity. PEM 233A, pp. 1-2.

The Department is required to send a DHS-2444, Notice of Employment and/or Self Sufficiency Related Noncompliance within three days after learning of the noncompliance which must include the date of noncompliance, the reason the client was determined to be noncompliant, the penalty that will be imposed and the triage date within the negative action period. PEM 233A, p. 9

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. If it is determined at triage that the client has good cause, and good cause issues have been resolved, the client should be sent back to JET. PEM 233A, p. 4, 5

Good cause should be determined 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 MWA. 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. PEM 233A, p. 9

The penalty for noncompliance without good cause is FIP closure. Effective April 1, 2007, the following minimum penalties apply:

- . For the first occurrence on the FIP case, close the FIP for not less than 3 calendar months unless the client is excused from the noncompliance as noted in “First Case Noncompliance Without Loss of Benefits” below.
- . For the second occurrence on the FIP case, close the FIP for not less than 3 calendar months.
- . For the third and subsequent occurrence on the FIP case, close the FIP for not less than 12 calendar months.
- . The penalty counter also begins April 1, 2007 regardless of the previous number of noncompliance penalties. PEM, Item 233A.

Noncompliance, without good cause, with employment requirements for FIP/RAP(SEE PEM 233A) may affect FAP if both programs were active on the date of the FIP noncompliance. PEM 233b, p. 1 The FAP group member should be disqualified for noncompliance when all the following exist:

- . The client was active both FIP and FAP on the date of the FIP noncompliance, and
- . The client did not comply with FIP/RAP employment requirements, and
- . The client is subject to a penalty on the FIP/RAP program, and
- . The client is not deferred from FAP work requirements (see DEFERRALS in PEM 230B), and
- . The client did not have good cause for the noncompliance. PEM 233B, p.2

The Department should budget the Last FIP grant amount on the FAP budget for the number of months that corresponds with the FIP penalty (either three months for the first two noncompliances or 12 months for the third and subsequent noncompliances) after the FIP case closes for employment and/or self sufficiency-related noncompliance. The Last FIP grant amount is the grant amount the client received immediately before the FIP case closed.

The Department referred the Claimant to Michigan Works as a condition of receiving FIP benefits, and scheduled her to a JET orientation to start on March 8, 2010. The Claimant did not attend the JET orientation. The Department scheduled a triage meeting for March 25, 2010, where it gave the Claimant the opportunity to explain why she did not attend the JET orientation. The Claimant did not attend the triage meeting, and the Department did not find good cause for her failure to attend the JET orientation at Michigan Works.

The Claimant argued that she did not receive notice of the triage meeting until March 25, 2010, and that when she learned of the triage meeting, she immediately attempted to call her caseworker to reschedule it. The Claimant provided documentation that she had an appointment with the Washtenaw County [REDACTED] Department from 12:45 to 4:30 p.m. on

March 25, 2010, which conflicted with the triage meeting scheduled for 1:00 p.m. on the same day.

The Claimant provided a handwritten log of her telephone communications with her caseworker. This log includes an entry for March 25, 2010, and documents her attempt to reschedule the triage meeting.

The Department provided a log of voicemail messages compiled for the Claimant's caseworker. This log includes an entry for March 25, 2010, at 12:12 p.m., from a caller named [REDACTED] with a message "call Pls." The Department testified that support staff retrieves and logs all voicemail messages for caseworkers, who do not necessarily hear the actual messages themselves. The person that retrieved this particular voicemail message was not present at the hearing, and the exact contents of this message were not available.

The Notice of Noncompliance form, which notified the Claimant of the date, time, and location of the triage meeting, includes instructions to reschedule the meeting before you miss you scheduled appointment. Based on the testimony and evidence included in the hearing record, I find that the Claimant made a reasonable attempt to reschedule the triage meeting, and therefore the closure of the Claimant's FIP case 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 failed to establish that it acted in accordance with policy when it terminated the Claimant's FIP benefits without giving her the opportunity to show good cause at a triage meeting.

Accordingly, the Department's FIP eligibility determination is REVERSED. It is further ORDERED that the Department shall:

- (1) Remove the negative action from the Claimant's case file.
- (2) Reschedule a triage meeting with the Claimant.
- (3) Notify the Claimant in writing of the Department's revised FIP eligibility determination.

/s/ _____
Kevin Scully
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: June 23, 2010

Date Mailed: June 24, 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 60 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.

KS/vc

cc:

