

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER:

[REDACTED]

Reg No. 201040941
Issue No. 1038/3029
Case No. [REDACTED]
Load No. [REDACTED]
Hearing Date: September 30, 2010
Alpena County DHS

ADMINISTRATIVE LAW JUDGE: Marlene B. Magyar

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, an in-person hearing was held on September 30, 2010. Claimant and her mother personally appeared and testified.

ISSUE

Did the department properly impose noncompliance penalties on claimant's Family Independence Program (FIP) and Food Assistance Program (FAP) grants in June 2010?

FINDINGS OF FACT

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

1. At all times relevant, claimant was a mandatory participant in employment and/or employment-related activities assigned by her case manager at the Jobs, Education and Training (JET) Program site because her temporary deferral due to mental health treatment through [REDACTED] ended (Department Exhibit #1, pgs 4-7).
2. Participation in JET is required to avoid suspension of monthly FIP/FAP benefits in accordance with the penalty schedules set forth in BEM Item 233A, pg 1 and BEM Item 233B, pg 1.

3. On June 3, 2010, the department scheduled a triage meeting with claimant because FIP/FAP noncompliance sanctions were being considered (Department Exhibit #1, pg 10).
4. On that date, claimant appeared, at which time, she knowingly, willingly and voluntarily signed an agreement admitting/agreeing she was noncompliant, thus negating the proposed penalties during a “willingness to comply” period (Department Exhibit #1, pg 12).
5. Claimant’s willingness to comply test mandated she return to the JET site and participate as assigned, but she failed to do so (Department Exhibit #1, pgs 13-14 and Department Exhibit #2).
6. On June 8, 2010, the department mailed claimant a written notice stating the proposed noncompliance sanctions would be imposed effective July 1, 2010 (Department Exhibit #1, pgs 16 and 17).
7. Sixteen days after the mailing of this notice, specifically on June 24, 2010, the department received claimant’s hearing request protesting the imposition of sanctions.
8. Claimant’s hearing was held on September 30, 2010.

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 Food Assistance Program (FAP) (formerly known as the Food Stamp (FS) program) is established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations (CFR). The Department of Human Services (DHS or department) administers the FAP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3001-3015. Department policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

The department initiated the Jobs, Education and Training (JET) Pilot Program on April 1, 2006. This program replaced the former Work First Program, implemented in 1996 under the welfare reforms initiated by President Clinton through his signing of the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA). This Act established a block grant program to distribute federal taxpayer dollars to state governments to fund state cash assistance programs like Michigan's FIP program, and also, required all states to develop and implement mandatory employment-related activities, rules and policies for welfare recipients.

Under JET rules, a Work Eligible Individual (WEI) is a FIP recipient who counts in the state's federal work participation rate. BEM Item 228, pg 2. As a condition of eligibility, all WEIs and non-WEIs must work or engage in employment and/or self-sufficiency related activities. Noncompliance is defined in part in policy as failing or refusing to appear and participate with the JET program or other employment service provider, failing to comply with activities assigned on the Family Self-Sufficiency Plan (FSSP) or Personal Responsibility Plan and Family Contract (PRPFC), and failing to appear for any scheduled appointment or meeting. BEM Item 233A, pgs 1 and 2. Additionally, certain parameters have been established by the department to assess whether or not sanctions are appropriate in any given case.

Claimant stated at hearing she doesn't think it's fair that the department used a mental fitness assessment certified by a physician's assistant (PA-C) at CMH rather than by her treating doctor. First, this individual is a qualified paraprofessional who works in conjunction with claimant's treating doctor. The department had every right to rely on his verification regarding her JET fitness level. Second, the department's policy specifically states recipients with medically verified temporary or permanent disabilities still may be required to participate under modified requirements with extra help or shortened hours. However, recipients are responsible for providing verification that they are unable to do so.

In this case, claimant never provided any verification of mental impairments continuing in the level of severity necessary to warrant her extended medical deferral from the JET Program. As such, the department had no alternative but to impose the disputed sanctions.

Claimant may reapply for benefits at any time. However, she should be aware that, if she wishes to pursue another medical deferral, she must contact her treating provider (CMH) and get the verification required for deferral status to attach.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the department properly imposed noncompliance sanctions on claimant's FIP/FAP grants in June 2009.

Accordingly, the department's actions are AFFIRMED.

/S/
Marlene B. Magyar
Administrative Law Judge
For Ismael Ahmed, Director
Department of Human Services

Date Signed: October 26, 2010

Date Mailed: October 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.

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