

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: 2010-596
Issue No: 1038
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
October 29, 2009
Lenawee 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 October 29, 2009. Claimant was present and testified. Rebecca Clark, FIM, appeared on behalf of the department.

ISSUE

Did the Department of Human Services (department) properly close claimant's Family Assistance Program (FIP) benefits for failure to participate in 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 who had been on a deferral from JET participation due to a pending Supplemental Security Income (SSI) application.

(2) Due to a change in department policy, clients were no longer eligible for a deferral based solely upon a pending SSI application.

(3) The department issued a Verification Checklist on June 10, 2009 for claimant to provide a DHS 54-A Medical Needs form by June 22, 2009. (Department Exhibit 1, pg. 7)

(4) Claimant testified she never received the Verification Checklist in the mail.

(5) On July 29, 2009, the department issued a JET appointment notice for claimant to attend Michigan Works Orientation on August 10, 2009. (Department Exhibit 1, pg. 5)

(6) Claimant only stayed for a few hours of orientation on August 10, 2009 and asked to leave due to a doctor's appointment.

(7) Claimant testified that Michigan Works asked her to contact her department case worker for a new orientation date rather than return to complete the program.

(8) Claimant testified she left messages for her department worker but did not hear back.

(9) The department issued a Notice of Noncompliance on August 13, 2009 due to the missed Michigan Works orientation and scheduled a triage meeting for August 19, 2009.

(Department Exhibit 1, pg. 3)

(10) Claimant did not appear for the triage meeting and testified she did not receive the Notice of Noncompliance in the mail.

(11) The department closed the FIP case on September 1, 2009.

(12) Claimant filed a hearing request on September 23, 2009 to contest the FIP closure.

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 Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) 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. PEM 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. PEM 230 A. A mandatory participant in the JET program who fails without good cause to participate in employment activity must be penalized. PEM 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. PEM 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. PEM 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. PEM Manual Item 230(a), PEM Manual Item 230(b); 7 CFR Parts 272 and 273.

A person 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 Michigan Rehabilitation Services (MRS) or the Commission for the Blind for consultation and may be eligible for ongoing services from those agencies. MRS offers vocational rehabilitation services to individuals with disabilities. BEM 230 A.

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 (including those who have applied for RSDI/SSI) at intake, redetermination or anytime during an on going benefit period, the department is to require the client to provide verification from their doctor (a DHS-49, Medical Examination Report or DHS-54A, Medical Needs may be used) BEM 203A.

If the verification indicates the disability will last longer then 90 days, the department is to request a consultation from MRS or the Commission for the Blind, whichever is appropriate by completing Section I on a DHS-517, Consultation Request form. When the DHS-517 is returned, the department will then take action depending on the response. If the response indicates that the Client does not feel they are capable of employment at this time, the department will then obtain a medical determination from the Medical Review Team. All decisions review the medical records and information provided by MRT to determine what

accommodations, other than deferral from JET, the client needs to be able to benefit from the FIP program and to pursue employment and or self sufficiency related activities. BEM 230A.

Upon receipt of the MRT determination, the department will take the action that pertains to the decision rendered by the MRT. For a determination of work ready with limitations, the department is to refer the claimant to JET identifying the client's limitations using additional information codes and case notes on the DHS-2439 when the referral is made to JET.

In the present case, claimant indicated she suffered from a long term incapacity on the FAST she completed for the department and also by her application for SSI benefits. Claimant had been on a deferral from JET participation due to the SSI application. However, due to a change in department policy, the pending SSI application was no longer sufficient and the department needed to obtain evidence for their own disability determination. The department indicated they issued a Verification Checklist to claimant on June 10, 2009 for her to return the attached DHS 54-Medical Needs form, completed by her doctor, by June 22, 2009. (Department Exhibit 1, pg. 7) Claimant testified she never received these documents in the mail. Given that there is no name or mailing address included on either the Verification Checklist or Medical Needs Form, the department has not met their burden of proof that these forms were actually mailed to the claimant.

When the DHS 54-A medical needs form was not returned, and thus no medical evidence to use for disability determination, the department issued claimant a notice to attend Michigan Works on August 10, 2009 to begin the required JET participation. Claimant testified that she had a doctor's appointment the day of Michigan Works orientation and was told to contact her caseworker to get a new orientation date rather than return to the program. Claimant testified she left multiple message for her caseworker which were never returned. The department worker claimant would have called was not present at the hearing. However the department did present

evidence that claimant left message for a supervisor regarding the her Food Assistance benefits and the department was unable to return the messages. (Department Exhibit 1, pg. 1)

When claimant failed to complete Michigan Works orientation, the department issued a Notice of Noncompliance indicating a triage meeting was scheduled for August 19, 2009 for claimant to provide verification of why she missed the orientation. (Department Exhibit 1, pg. 3) The department noted that claimant failed to attend the triage meeting or provide verification of the doctor appointment that caused her to leave orientation early. Claimant testified she did not receive the Notice of Noncompliance. Without this notice, claimant would not have known she needed to provide verification of the doctor appointment. However, because of the error with the verification checklist, claimant may have been eligible for a deferral, in which case she may not have needed to attend Michigan Works at all.

Based upon the foregoing facts and relevant law, it is found that the claimant had good cause for not attending the JET orientation. The department did not present sufficient evidence that the Verification Checklist was properly mailed to claimant. Accordingly, she was not given the appropriate opportunity to present medical evidence of her impairments for a deferral based upon disability. Accordingly the FIP closure was in err and the department shall give claimant the opportunity to present medical evidence for a deferral based upon her impairments and reinstate the FIP case retroactive to the September 1, 2009 closure.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the claimant had good cause for not attending the JET orientation.

Accordingly, the department's FIP determination is REVERSED. Therefore, it is ORDERED that the department reinstate claimant's FIP benefits retroactive to the

September 1, 2009 closure. It is further ORDERED that the department give claimant the opportunity to present medical evidence for a JET deferral based upon her impairments.

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

Date Signed: November 6, 2009

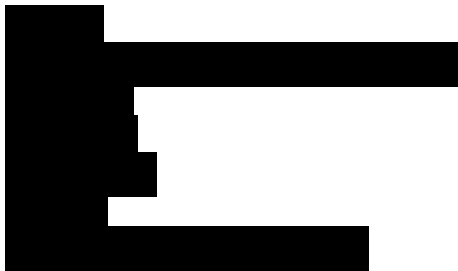
Date Mailed: November 9, 2009

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

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