

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: 2010-645
Issue No: 1038
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
October 29, 2009
St. Joseph County DHS

ADMINISTRATIVE LAW JUDGE: Suzanne L. Keegstra

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. The claimant personally appeared and provided testimony.

ISSUE

Did the department properly deny the claimant's Family Independence Program (FIP) application for Work First/Jobs, Education and Training (WF/JET) program noncompliance in August, 2009?

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 applied for FIP benefits on July 17, 2009.
2. The claimant indicated that she had a disability and was unable to participate with WF/JET. The claimant was given a (DHS-54A) Medical Needs Form and told that she would

have to have the form completed and turned in prior to her orientation date with WF/JET.

(Department Exhibit 16)

3. The claimant was scheduled to attend WF/JET beginning on July 27, 2009.

(Department Exhibit 18)

4. On July 21, 2009, the department received a Medical Needs Form signed by [REDACTED]. The form indicated that the claimant could work at any job, that the claimant could attend WF/JET and could participate in work-related activities. (Department Exhibit 4)

5. The case worker called the doctor to confirm the Medical Needs Form. The doctor again stated that he could not see any reason to dismiss the claimant from participating in WF/JET. (Department Exhibit 4, 16)

6. The case worker then called the claimant and informed her that the physician had indicated she could participate in the WF/JET program and that she would have to attend the appointment on July 27, 2009. (Department Exhibit 16)

7. The claimant did not attend the WF/JET appointment. (Department Exhibit 16)

8. The claimant was mailed a Notice of Case Action (DHS-1605) on August 12, 2009, informing her that her FIP application had been denied as of August 16, 2009.

(Department Exhibit 10 – 15)

9. On August 4, 2009, the department received a document purportedly from the physician's office of [REDACTED]. The document indicated the claimant should be excused from WF/JET from July 30, 2009 until six weeks after surgery (date to be determined) and indicates no lifting over ten pounds. The slip has two physician's names printed on the bottom of the slip and another name written in next to it. There is no signature on it.

(Department Exhibit 3)

10. On September 28, 2009, the department received the same form with someone's signature on the bottom of the form. (Department Exhibit 17)

11. The claimant turned in a request for hearing on September 28, 2009.

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) and the Bridges Reference Manual (BRM).

Department policy states:

DEPARTMENT PHILOSOPHY

FIP

DHS requires clients to participate in employment and self-sufficiency-related activities and to accept employment when offered. Our focus is to assist clients in removing barriers so they can participate in activities which lead to self-sufficiency. However, there are consequences for a client who refuses to participate, without good cause.

The goal of the FIP penalty policy is to obtain client compliance with appropriate work and/or self-sufficiency-related assignments and to ensure that barriers to such compliance have been identified and removed. The goal is to bring the client into compliance.

Noncompliance may be an indicator of possible disabilities. Consider further exploration of any barriers.

DEPARTMENT POLICY

FIP

A Work Eligible Individual (WEI), see BEM 228, who fails, without good cause, to participate in employment or self-sufficiency-related activities, must be penalized.

See BEM 233B for the Food Assistance Program (FAP) policy when the FIP penalty is closure. For the Refugee Assistance Program (RAP) penalty policy, see BEM 233C. BEM 233A, p. 1.

NONCOMPLIANCE WITH EMPLOYMENT AND/OR SELF-SUFFICIENCY-RELATED ACTIVITIES

As a condition of eligibility, all WEIs and non-WEIs must work or engage in employment and/or self-sufficiency-related activities. 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) or PRPFC.
 - .. Appear for a scheduled appointment or meeting related to assigned activities.
 - .. Provide legitimate documentation of work participation.
 - .. 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. BEM 233A, pp. 1-2.

JET Appointment Notice and JET Attendance Requirements

Exception: Use the DHS-4785, JET Appointment Notice at **application** to schedule an appointment for each mandatory JET participant. Include the date, time and location to appear for their JET assignment. When assigned, clients must engage in and comply with all JET assignments while the FIP application is pending. JET engagement is a condition of FIP eligibility. PEM 229, p. 2.

Failure by a client to participate fully in assigned activities while the FIP application is pending will result in denial of FIP benefits, if upon the day of case processing the client is in noncompliance with JET. Use ASSIST denial code 463 and CIMS denial code 210 for clients denied FIP benefits for noncompliance while the application is pending. Retain a copy of the appointment notice in the case record. Do not penalize Food Assistance when a client fails to attend JET as a condition of eligibility when the noncompliant person is not active FIP on the date of the noncompliance. Clients must be active FIP to apply a FIP penalty to the FAP case.

Noncompliance is defined by department policy as failing or refusing to do a number of activities, such as attending and participating with WF/JET, completing the FAST survey, completing job applications, participating in employment or self-sufficiency-related activities, providing legitimate documentation of work participation, etc. BEM 233A. In this case, the

claimant does not dispute that she was noncompliant with WF/JET program requirements. The claimant admits that she did not attend the WF/JET appointment that was scheduled for her.

The claimant indicates that she believes she had good cause for her noncompliance. Good cause is defined as 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. BEM 233A. The claimant indicates that she is disabled and unable to participate with WF/JET.

While a personal illness, injury or physical/mental condition can be a good cause reason for noncompliance, the claimant did not provide the department with proper documentation during the pendency of the FIP application.

The claimant first turned in a physician slip filled out by [REDACTED] on July 21, 2009. This documentation indicated that the claimant could work at any job. To be clear about what the doctor was indicating, the department followed up verbally with the doctor and he stated that there was no reason the claimant could not participate with WF/JET.

The claimant evidently did not like this result as she went to another doctor to get a second physician's slip. The second slip was turned in on August 4, 2009. However, this slip is lacking in several areas. The document indicated the claimant should be excused from WF/JET from July 30, 2009 until six weeks after surgery (date to be determined) and indicates no lifting over ten pounds. The slip has two physician's names printed on the bottom of the slip and another name written in next to it. There is no signature on it. First of all, this does not cover the time period of the claimant's appointment with WF/JET (July 27, 2009). Second, the slip is not signed by any physician or authenticated in any way. Third, it is in clear contradiction to the original physician slip that the department received.

The claimant did not submit what appears to be a signed copy of this same doctor's slip until September 28, 2009. By this time, the claimant's application had already been processed and denied. Department policy indicates that failure by a client to participate fully in assigned activities while the FIP application is pending will result in denial of FIP benefits, if upon the day of case processing the client is in noncompliance with JET. BEM 229.

In this case, the claimant's application was denied on August 12, 2009. At that time, the claimant was in noncompliance with WF/JET requirements. Further, there was no documentation providing any good cause for the time period the claimant was to attend WF/JET. In fact, the physician's slip the claimant turned in six days before her WF/JET appointment indicated she was capable of participating with WF/JET. Thus, this Administrative Law Judge is unable to find any good cause for the claimant's noncompliance.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department properly determined the claimant was noncompliant with WF/JET program requirements without good cause and properly denied her FIP application.

Accordingly, the department's actions are UPHeld. SO ORDERED.

/s/

Suzanne L. Keegstra
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: January 13, 2010

Date Mailed: January 19, 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.

SLK 

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