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

IN THE MATTER OF:



Reg. No: 201112212

Issue No: 1038

Case No:

Hearing Date: March 17, 2011

Saginaw County DHS

ADMINISTRATIVE LAW JUDGE: Kevin Scully

HEARING DECISION

This matter is before the under signed Administrative Law J udge by authority of MCL 400.9 and MCL 400.37. Claimant's request for a hearing was receiv ed on November 29, 2010. After due notice, a telephone hearing was held on Thursday, March 17, 2011.

<u>ISSUE</u>

Whether the Department of H uman Servic es (Department) properly san ctioned the Claimant's Family Independence Program (FIP) case for noncompliance wit h the 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. The Claimant received FIP benefits until December 1, 2010.
- 2. The Department referred the Claimant to the Jobs, Education, and Training (JET) program as a condition of receiving FIP benefits.
- 3. The Claim ant was noncompliant with the JET program on October 7, 2010, when she failed to attend her scheduled JET programming.

- 4. The Department conducted a triage meeting on November 16, 2010.
- 5. On Novem ber 18, 2010, the Department notified the Claimant that it wo uld sanction her FIP benefits as of December 1, 2010.
- 6. The Department received the Claimant's request for a hearing on November 29, 2010, protesting the termination of her FIP benefits.

CONCLUSIONS OF LAW

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconc iliation 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 Ai d to Dependent Children (ADC) program effective October 1, 1996. De partment policies are found in the Bridges Administrative Manual (BAM), the Bridges Elig ibility Manual (BEM), Refe rence Table Manual (RF T), and the Bridges Reference Manual (BRM).

Department policy states that clients must be made aware that public as sistance 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 as sessments 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 eligib le individual (WEI) in the FIP and RAP group to participate in the Jobs, Educati on and T raining (JET) Program or other employment-related activities unless temporar ily deferred or engaged in activities that meet participation requirements. These c lients must participate in employment and/or self-sufficiency-related activities to in crease their employabi lity and obtain stab le employment. JET is a program administer ed by the Michigan Department of Labor and Economic Growth (D LEG) through the Mi chigan Works Agencies (MWAs). The JET program serves employers and job seekers for employers to have skille d workers and job seekers to obtain jobs that provide economic self-sufficiency. A WEI who refuses, without good cause, to participate in as signed employment and/or self-sufficiency-related activities is subject to penalties. PEM 230A, p. 1.

Noncompliance of applic ants, 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 Se If-Sufficiency Plan (F SSP) or a Personal Respons ibility 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-sufficiencyrelated 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 behav ing 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 s elfsufficiency-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 in clude the date of noncompliance e, 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 nonc ompliance wit h employ ment and/or self-sufficiency-related activities that are based on factors that are beyond the control of the noncompliant per son. A claim of good c ause must be verified and doc umented 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 besit 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 ident ified by the client) and unmet needs for accommodation. PEM 233A, p. 9

The penalty for noncomplianc e 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 mont hs unless the client is excused from the noncompliance as noted in "First Case Noncompliance Without Loss of Benefits" below.
- For the second occur rence 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 num ber of noncompliance penalties. PEM, Item 233A.

Noncompliance, without good cause, with employment r equirements for FIP/RAP(SEE PEM 233A) may affect FAP if both progr ams 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 bot h FIP and FAP on the date of the FIP noncompliance, and
- The client did not comply wit h FIP/RAP employment requirements, and

- The client is s ubject to a penalty on the FIP/RA P program, and
- The client is not deferred from FAP work requirements, and
- The c lient did not have good c ause 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 corres ponds with the FIP penalty (e ither three months for the first two noncomplianc es or 12 months for the third and subseq uent 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 Claimant was an ongoing FIP recipient, and the Department referred her to the JET program as a condition of re ceiving FIP benefits. The Claimant was noncompliant with the JET program on October 7, 2010, when she failed to attend her scheduled JET programming. The Department scheduled a triage meeting for October 28, 2010, which was rescheduled for November 16, 2010. The triage meeting was the Claimant's opportunity to establish good cause for her noncompliance with the JET program, but she failed to attend the meeting on November 16, 2010. The Department did not find good cause for the Claimant's noncompliance. On November 18, 2010, the Department notified the Claimant that it would sanction her FIP benefits on December 1, 2010.

The Department notified the Claimant of the triage meeting scheduled for November 16, 2010, by telephone. This was the Claimant's opportunity to establish good cause for her noncompliance with the JET program. The Claimant failed to attend this meeting, and also did not submit any evidence to establish good cause.

Based on t he evidence and testimony available during the hearing, the Department's determination that the Claimant did not have good cause for her noncompliance with the JET program is reasonable. The Department has established that it acted properly when it sanctioned the Claim ant's FIP benefits for nonchemical ompliance with the JET program.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusion sof law, decides that the Department acted in accordance with policy when it sanctioned the Claimant's Family Independence Program (FIP) case for noncompliance with the Jobs, Education, and Training (JET) program.

The Department's FIP sanction is AFFIRMED. It is SO ORDERED.

| /s/ | | |
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| | Kevin | Scully |
| | | Administrative Law Judge |
| | | for Maura D. Corrigan, Director |
| | | Department of Human Services |

Date Signed: March 30, 2011

Date Mailed: March 31, 2011

NOTICE: Administrative Hearings may or der 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 Hear ings will not orde rarehearing 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 ti mely request for rehearing was made, within 30 days of the receipt date of the rehearing decision.

KS/vc

cc: