STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

███████████
███████████

Reg. No.:   201124209
Issue No.:   1038; 5026; 6000
Case No.:   ████████
Hearing Date: May 12, 2011
DHS County: MACOMB

ADMINISTRATIVE LAW JUDGE: ████████████

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 May 12, 2011. Claimant appeared and testified. ███████ ██████, JET case manager, appeared on behalf of the Department of Human Services (Department or DHS).

ISSUES

Was the Department correct in denying Claimant's Family Independence Program (FIP) application due to noncompliance with employment and/or work-related activities?

Was the Department correct in denying Claimant's State Emergency Relief (SER) for rent due to shelter not being affordable?

Was the Department correct in denying Claimant's Child Development and Care (CDC) application due to failure to cooperate with the Department?

FINDINGS OF FACT

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

FIP

1.   Claimant applied for FIP on January 27, 2011.

2.   As a recipient of FIP, Claimant was required to participate in employment-related activities.

3.   To fulfill this requirement, Claimant was assigned to the Jobs, Education and Training (JET) program.

4.   On February 1, 2011, the Department issued to Claimant a JET appointment notice for February 14, 2011.

5.   Claimant attended the February 14, 2011 appointment ten minutes late due to child care issues, and attempted to contact the Department by phone.

6.   The Department denied Claimant's application due to noncompliance with employment-related activities.

7.   On February 28, 2011, Claimant requested a hearing, contesting the negative action.

SER

1.   Claimant applied for SER for rent on January 27, 2011.

2.   Claimant earned ▮▮▮▮▮ per month.

3.   Claimant's rent was ▮▮▮▮▮ per month.

4.   The Department denied Claimant's SER for rent due to shelter not being affordable.

5.   Claimant requested a hearing, protesting the denial of SER for rent.

CDC

1.   Claimant applied for CDC on January 27, 2011.

2.   The Department denied Claimant's application.

3.   At the hearing, the Department agreed to reinstate and reprocess Claimant's CDC application of January 27, 2011.

4.   As a result of the agreement, Claimant stated she no longer requested a hearing on CDC.

CONCLUSIONS OF LAW

Family Independence Program (FIP)

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 administers the FIP program pursuant to MCL 400.10, *et seq.,* and MAC R 400.3101-3131. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Program Reference Manual.

The Department requires clients to participate in employment and self-sufficiency-related activities and to accept employment when offered. BEM 230A; BEM 233A. All Work Eligible Individuals (WEIs) are required to participate in the development of a Family Self-Sufficiency Plan (FSSP) unless good cause exists. BEM 228. As a condition of eligibility, all WEIs must engage in employment and/or self-sufficiency-related activities. BEM 233A. The WEI is considered non-compliant for failing or refusing to appear and participate with the JET Program or other employment service provider. BEM 233A. 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. BEM 233A. Failure to comply without good cause results in FIP closure. BEM 233A. The first and second occurrences of non-compliance result in a three-month FIP closure. BEM 233A. The third occurrence results in a twelve-month sanction. The goal of The FIP penalty policy is to bring the client into compliance. BEM 233A.

JET participants will not be terminated from a JET program without first scheduling a triage meeting with the client to jointly discuss noncompliance and good cause. BEM 233A. In processing a FIP closure, the Department is required to send the client a Notice of Noncompliance (DHS-2444) which must include the date(s) of the noncompliance; the reason the client was determined to be noncompliant; and the penalty duration. BEM 233A. In addition, a triage must be held within the negative action period. BEM 233A.

In the present case, Claimant testified credibly that she attended the required JET appointment, but she was late ten minutes late due to child care/school attendance issues. Claimant further testified that she attempted to contact the Department with regard to the appointment by phone, but her call was not returned. I am satisfied that Claimant was subjected to "an unplanned event or factor which likely prevents or significantly interferes with employment and/or self-sufficiency-related activities." BEM 233A. Based on the above discussion, I find that Claimant had good cause, that is, a valid reason for noncompliance with employment and/or self-sufficiency-related activities, and therefore the Department was not correct in its decision to deny Claimant's FIP application.

State Emergency Relief (SER)

The SER program is established by 2004 PA 344. The SER program is administered pursuant to MCL 400.10, *et seq.,* and by final administrative rules filed with the Secretary of State on October 28, 1993. MAC R 400.7001-400-7049. Department policies are found in the State Emergency Relief Manual (ERM).

ERM 207 instructs that the total rental obligation cannot exceed 75% of the group's income.

In the present case, Claimant testified credibly that she worked between fifteen and twenty hours per week at the rate of $9.18 per hour. This is consistent with the letter from her employer, JC Penney Portrait Studio, and with Claimant's prior wages shown in her application. Claimant stated in her application that she anticipated working eight-ten hours per week, but the employer letter and Claimant's past wages read in the light most favorable to Claimant would place her at an average of ▮▮▮▮ per month. Claimant's rental obligation of ▮▮▮▮0 per month did not exceed 75% of Claimant's group income of ▮▮▮▮ per month. Therefore, the Department was not correct in denying Claimant's application for SER for rent due to shelter not being affordable.

Child Development and Care (CDC)

The CDC program is established by Titles IVA, IVE and XX of the Social Security Act, the Child Care and Development Block Grant of 1990, and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The program is implemented by Title 45 of the Code of Federal Regulations, Parts 98 and 99. The Department provides services to adults and children pursuant to MCL 400.14(1) and MAC R 400.5001-5015. Department policies are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (PRM).

Under Bridges Administrative Manual Item 600, clients have the right to contest any agency decision affecting eligibility or benefit levels whenever they believe the decision is illegal. The Department provides an Administrative Hearing to review the decision and determine if it is appropriate. Department policy includes procedures to meet the minimal requirements for a fair hearing. Efforts to clarify and resolve the client's concerns start when the Department receives a hearing request and continues through the day of the hearing.

In the present case, the Department agreed to reinstate and reprocess Claimant's CDC application of January 27, 2011. As a result of this agreement, Claimant stated she no longer requested a hearing on CDC.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department was incorrect with regard to its decisions regarding FIP and SER and that the Department and Claimant have come to an agreement regarding CDC. It is therefore ORDERED that the Department shall reinstate and reprocess Claimant's FIP application of January 27, 2011, and if she meets eligibility requirements, any missed payments shall be made in the form of a supplement. It is further ORDERED that the Department shall reinstate and reprocess Claimant's SER application of January 27, 2011, using actual wages at the time, and issue a new State Emergency Relief Decision Notice. Claimant may appeal the new SER Decision Notice if she feels aggrieved by it. It is further ORDERED that the Department shall reinstate and reprocess Claimant's CDC application of January 27, 2011, in accordance with its agreement with Claimant. It is further ORDERED that any missed provider payments shall be made in the form of a settlement.

Accordingly, the Department's decision in the above-stated matter is, hereby, REVERSED. The Department is ORDERED to reinstate Claimant's FIP benefits as of October 1, 2010, if Claimant meets all other eligibility factors. Furthermore, the Department is ORDERED to issue Claimant any benefits missed as a result of the negative action.

_____

Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: [Insert.]

Date Mailed: [Insert.]

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.

SCB/hw

cc: █████████
         Macomb County DHS (20)/ 1843

         ████████████
         ████████████
         ████████████
         ████████████████
         ████████████
         ███████████

         Administrative Hearings